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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1106

[DA-90-008]

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions and Order Terminating Certain Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension and termination of rule.

SUMMARY: This action suspends certain provisions of the Southwest Plains milk order during the period March through August 1990. In addition, it terminates a provision of the order. The suspension actions and termination action were requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents producers who supply a significant portion of milk for the market.

These actions are necessary for the efficient disposition of an increasing supply of milk and to avoid costly and inefficient movements of milk.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension and Proposed Termination: Issued February 13, 1990; published February 20, 1990 (55 FR 5854).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that these actions will not have a significant economic impact on a substantial number of small entities. These actions lessen the regulatory impact of the order on certain milk handlers and tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

This order of suspension of certain provisions and termination of a provision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Southwest Plains marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on February 20, 1990, (55 FR 5854) concerning a proposed suspension and termination of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined:

That for the months of March through August 1990 the following provisions of the order do not tend to effectuate the declared policy of the Act and are suspended:

1. In § 1106.6, the words "during the month".

2. In § 1106.7(b)(1), the words "until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) or (e) of this section. A plant not meeting such 20 percent requirement in any month of such February–August period shall be qualified in any remaining month of such period only if such transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) or (e) of this section are not less than 50 percent of receipts or diversions, as previously specified".

3. In § 1106.13, paragraph (d)(1) in its entirety.

That the following provision of the order does not effectuate the declared policy of the Act and is terminated:

1. In § 1106.12, paragraph (b)(5) in its entirety.

Statement of Consideration

Although the request for suspension and termination asked that February 1990 be included in any suspension and termination actions deemed appropriate, it was not possible to accomplish the required procedures and still make the actions effective for February 1990. Thus, these suspension and termination actions will be effective for the month of March 1990.

For the months of March through August 1990, the shipping standards are suspended for supply plants that were previously associated with the market. The order defines a supply plant as a plant from which fluid milk products are transferred or diverted to distributing plants during the month. It also provides that in order to be pooled under the order during the months of September through January, 50 percent of a supply plant's receipts must be shipped to distributing plants each month. A supply plant that was pooled during each of the immediately preceding months of September through January shall continue to be pooled during the following months of February through August if 20 percent of its receipts are shipped to distributing plants. Part of the suspension action would remove during the months of March through August 1990, the shipping standards for supply plants that were pooled under the order during the immediately preceding September through January period. These order provisions were last suspended from November 1988 through August 1989.

The action also suspends the monthly requirement that a dairy farmer's milk be received at a pool plant in order to be eligible for diversion to nonpool plants. The order currently provides that a dairy farmer's milk may be diverted to nonpool plants and still be priced under the order if at least one day's production of such person is physically received at a pool plant during the month. This order provision has been suspended in three previous actions (April through July 1987; February through July 1988; and March through August 1989).

The termination action removes the provision that prevents dairy farmers

from being considered producers under the order during the months when supplies are abundant if they did not sufficiently supply the market during the fall months when fluid milk needs were seasonally greater. This provision is commonly known as a "dairy farmer for other markets" provision. The order currently provides that a dairy farmer cannot be a producer under the Southwest Plains order during the months of February through July unless during each of the immediately preceding months of September through November more than two-thirds of the producer's milk was pooled and priced under the order. This order provision has been suspended in each of the past three years.

The suspension actions were requested by Mid-America Dairymen, Inc. (Mid-Am), and supported in written comments by Associated Milk Producers, Inc. (AMPI), two cooperative associations that represent a substantial number of producers who supply the Southwest Plains market. Based on the information reviewed, it appears that there will be ample supplies of direct-shipped producer milk to meet the fluid needs of plants during the February through August 1990 period. Producer receipts in the Southwest Plains order are increasing at a rate faster than Class I milk sales. Accordingly, supplemental supply plant milk will not be needed to supply the fluid needs of Southwest Plains distributing plants during the March through August 1990 period. Additionally, there apparently is no need to require producers located some distance from pool plants to be received one time during the month when their milk can more economically be diverted to manufacturing plants in the production area. To require each producer to have his/her milk be received at least one time each month at a pool plant would result in uneconomical and inefficient milk movements.

The requested termination also was proposed by Mid-Am and supported by AMPI. It is concluded that this termination action is warranted because of changed marketing conditions under the Southwest Plains and other marketing areas. Since the end of the Dairy Termination Program, milk from producers historically associated with the Southwest Plains order has been used to help meet the fluid milk needs to the South and Southeast of the Southwest Plains marketing area in the fall when milk supplies in those areas are short. As milk supplies in those areas increase in the spring, supplemental milk from the Southwest Plains area is no longer needed to meet fluid milk requirements in those deficit areas and should be able to come back onto the Southwest Plains market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) These suspension actions and the termination action are necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that these actions will promote hauling efficiencies of milk from supply plants and permit milk that has been historically supplied to and associated with the market to continue to be priced under the order and thereby receive the benefits that accrue from such pricing.

(b) These suspension actions and the termination action do not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning these suspensions and termination. No comments were filed in opposition to these actions.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1106

Milk marketing orders.

It is therefore ordered, That the following provisions in §§ 1106.6, 1106.7(b)(1), 1106.13.(d)(1) are hereby suspended for the months of March through August 1990, and that the provisions in § 1106.12.(b)(5) are terminated.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. The authority citation for 7 CFR part 1106 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1106.6 [Suspended in part]

2. In § 1106.6, the words "during the month" are suspended.

§ 1106.7 [Suspended in part]

3. In § 1106.7(b)(1), the words "until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) or (e) of this section. A plant not meeting such 20 percent requirement in any month of such February–August period shall be qualified in any remaining month of such period only if such transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) or (e) of this section are not less than 50 percent of receipts or diversions, as previously specified" are suspended.

§ 1106.13 [Suspended in part]

4. In § 1106.13, paragraph (d)(1) is suspended in its entirety.

§ 1106.12 [Amended]

5. In § 1106.12, paragraph (b)(5) is removed.

Signed at Washington, DC, on: March 19, 1990.

John R. Frydenlund,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 90–6772 Filed 3–23–90; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Parts 1900 and 1951

Administrative Offset

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its Administrative Offset regulation. This amendment permits administrative offset against amounts that would otherwise be paid by other Federal agencies, including retirement funds and pension payments, to delinquent FmHA borrowers and other entities indebted to the Agency. The objective is to inform the public of the procedures that will be used by FmHA to exercise administrative offset. The intended effect is to allow the Agency to collect amounts that would otherwise be paid to delinquent borrowers and other debtors.

EFFECTIVE DATE: May 25, 1990.

FOR FURTHER INFORMATION CONTACT: Bob Nelson, Management Analyst, Farmers Home Administration, U.S. Department of Agriculture, Room 5505, South Agriculture Building, Washington, DC 20250, telephone (202) 475–4705.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined "non-major." It will not result in an annual effect on the

economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Intergovernmental Consultation

The programs to which this regulation may apply are listed in the Catalog of Federal Domestic Assistance under the following:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.420 Rural Self-Help Housing Technical Assistance
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facility Loans
10.428 Economic Emergency Loans
10.433 Housing Preservation Grants
10.434 Nonprofit Corporations
10.435 Agricultural Loan Mediation Program

Programs listed under numbers 10.404, 10.406, 10.407, 10.410, 10.417, 10.421, 10.428, and 10.435 are not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR 3015, subpart V, 48 FR 29112, June 24, 1983.)

Programs listed under numbers 10.405, 10.411, 10.414, 10.415, 10.416, 10.418, 10.419, 10.420, 10.422, 10.423, 10.427, 10.433, and 10.434 are subject to the provisions of Executive Order 12372 (7 CFR 3015, subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985.)

Responses to Comments

FmHA published a proposed rule in the **Federal Register** on August 22, 1989 (54 FR 34773) inviting comments until September 21, 1989. Five comments on the proposed rule were received, two from within USDA, two from a farm advocacy group, and one from an individual.

The first FmHA rule implementing the administrative offset provisions of the Debt Collection Act of 1982, Public Law 97-365, was promulgated on November 26, 1986 at 51 FR 428209. This rule was published as an interim final rule with public comments requested until December 26, 1986. During the period from November 26, 1986 through September 30, 1987, FmHA notified about 3,100 farm borrowers that the Federal payments they would be receiving would be subject to offset. Early reports by FmHA indicated that by November 30, 1987, it had accomplished 1,369 actual offsets throughout the country for a total of $4.26 million.[1] Offsets continued until FmHA suspended the program on December 7, 1987. Except in North Dakota, where the agreed order [2] suspending administrative offset in that state required FmHA to rescind the then pending FmHA Form Letter 1951-3 notices to Agricultural Stabilization and Conservation Service (ASCS),[3] FmHA did not withdraw the 1951-3 notices in the remainder of the country, but merely suspended further action on them. These notices are still outstanding.

One comment requested that these outstanding notices be withdrawn, and that FmHA refund to the borrowers any funds which FmHA obtained under the earlier Administrative Offset procedure. FmHA has decided not to withdraw the outstanding 1951-3 notices and has further concluded that it is under no obligation to refund any funds which it received as a result of the former Administrative Offset procedures at least until further administrative procedures provided borrowers by this regulation are exhausted. It should be noted that FmHA farm program borrowers against who there are outstanding notices of offset and whose debts have been restructured under the provisions of the Agricultural Credit Act of 1987 will not longer be subject to being offset. Accordingly, notices affecting these borrowers will be withdrawn. Farmer program borrowers who are currently being considered for relief under the provisions of the Agricultural Credit Act of 1987 will not have outstanding notices of offset enforced until they complete the restructuring process provided in the Agricultural Credit Act of 1987.

In addition, in response to the comment, FmHA has revised this regulation to permit any borrower from whom funds were offset, or who is still subject to an outstanding notice of Administrative Offset issued under the former regulation, to request an administrative hearing in accordance with the provisions of this revised regulation if he or she believes the Agency's past offset or notice of offset is contrary to this revised Administrative Offset regulation.

Another comment addressed the issue of permitting the borrower to enter into a written repayment agreement to repay the amount of the claim. The Agency's concerns on this matter were addressed in the preamble to the August 22, 1989, proposed rule. As indicated in the preamble to the proposed rule, FmHA farm program borrowers who may be subject to offset will already have had their accounts accelerated and will have been considered for various forms of debt servicing, including reamortizing the loan, reducing the interest rate and writing down both the principal and interest of the debt to the point at which the borrower can "cash flow." We reiterate the statement made in the preamble to the proposed rule that after a farm program borrower has been considered for the Agricultural Credit Act servicing relief, but has not qualified for such relief, and has had his or her loan accelerated, it is highly unlikely that the borrower will be able to make a credible offer to repay the debt in its entirety.

The comment suggested with respect to repayment agreements that FmHA recognize that, particularly with respect to Commodity Credit Corporation (CCC) commodity payments, the borrower may actually be able to produce more money by redeeming commodity certificates for commodities which could then be sold. The commenter argued that the farmer could effectively pay FmHA the equivalent of the cash value of the commodity certificate and still make some additional income or could conceivably pay FmHA more than the cash value of the commodity certificate. FmHA does not accept this suggestion. In the first place, the repayment agreement contemplated by the Debt Collection Act is for the amount of the claim, not the amount to be offset. Furthermore, FmHA does not believe it is a rational credit management policy to speculate on the future value of commodities nor does the commenter's suggestion provide any means of

assurance that the funds would actually be used to repay the FmHA debt.

One comment suggested that FmHA should not offset amounts that would otherwise be made available to borrowers as commodity certificates. This reflects a basic misunderstanding of the nature of the commodity certificate program. When a farmer becomes entitled to a program benefit under certain CCC programs, the CCC is authorized to fulfill that obligation either in cash or in the form of generic commodity certificates. Each commodity certificate bears, on its face, a specific cash value and may be immediately redeemable by the farmer for cash at a local ASCS office. See, 7 CFR 1470.4(f) (1989). The commenter appears to contend that because commodity certificates are not in the form of currency, they are not "money" and, therefore, may not be subject to offset. This is incorrect. First, when a farmer becomes entitled to receive a CCC program benefit, he or she is entitled only to receive a fixed monetary amount; the farmer is not statutorily entitled to receive that amount in his or her choice of cash or certificates. Once congressional authorization for the issuance of commodity certificates has been given, the decision of whether to issue certificates or cash is totally within the discretion of the Secretary of Agriculture. Pursuant to an offset request from FmHA, ASCS simply sends the cash value of the farmer's payment directly to FmHA. Thus, contrary to the commenter's suggestion, FmHA administrative offset of payments that may or may not have been satisfied alternatively by the issuance of commodity certificates does constitute withholding money payable by the United States and is subject to administrative offset under the Debt Collection Act.

Another major comment concerns the programs of other agencies against which FmHA will seek offset. The commenter contended that FmHA should not be offsetting any ASCS/CCC payments that are made under programs which have a significant public interest purpose. The commenter suggested that ASCS/CCC programs are designed to promote the general economic welfare of the Nation such as preserving soil and water resources, encouraging conservation of highly erodible land, establishing a positive balance of trade, stabilizing prices farmers receive for agricultural commodities, reducing surplus agricultural commodities, and encouraging the efficient use of the Nation's resources. The commenter felt that because of the significant public interest purposes any offsets will discourage participation in the programs and thus frustrate the overall intent and purpose of the programs.

The Agency does not concur in that interpretation. The Debt Collection Act provides that "[b]efore collecting a claim by administrative offset * * * the head of an executive or legislative agency must prescribe regulations on collecting by administrative offset based on—(1) the best interests of the United States Government * * *." 31 U.S.C. 2716(b). The Federal Claims Collection Standards promulgated jointly by the General Accounting Office and the Department of Justice, 4 CFR 102.3 (the "Joint Standards"), provide generalized guidance to governmental agencies in implementing the administrative offset provisions of the Debt Collection Act. With respect to the question of whether an agency should offset the funds accruing to a member of the public under another agency's program, the Federal Claims Collection Standards provide at 4 CFR 102.3(a)(2):

> * * * Agencies may also consider whether offset would tend to substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated. For example, under a grant program in which payments are made in advance of the grantee's performance, offset will normally be inappropriate. This concept generally does not apply, however, where payment is in the form of reimbursement.

The proposed rule and the regulation as promulgated are consistent with the Debt Collection Act and the Federal Claims Collection Standards in this regard. The regulation specifically provides that, in general, income supplement and enhancement program payments by CCC and ASCS will be subject to offset, but payments representing reimbursement for program expenses incurred by borrowers will not be subject to offset. The regulation gives a specific example of this: the initial payment for planting expenses under the CCC Conservation Reserve Program (CRP) will not be offset since this would possibly result in the land not being planted for conservation purposes although subsequent CRP payments representing rental income to the debtor will be offset.

This regulation balances the national interest in the management of FmHA's farm loan programs with the national interest inherent in the CCC/ASCS programs. While FmHA performs dual roles as a lender and a social welfare agency, by the time FmHA considers collection of a farmer's delinquent debt by administrative offset, loan servicing options designed to keep the farmer in farming, such as restructuring and debt writedown, have already been considered and rejected. Administrative offset is not sought by FmHA until the loan has been accelerated, at which time foreclosure is imminent. After acceleration, sound credit management policies compel FmHA to seek to recover as much of its loan as possible. See, e.g., § 335(f)(2) of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1985(f)(2). Offset protects the public interest of the FmHA loan programs by seeking collection of delinquent farm debts.[4] Farmers' failure to repay FmHA loans causes losses to the Federal government thus shrinking the already limited federal funds available for all federal programs.

FmHA has determined that FmHA's limited use of administrative offset will not impair the goals of the CCC/ASCS programs, which will inevitably be the programs which will be most subject to offset involving FmHA farm program loans. As has previously been noted, this regulation limits collection of delinquent debts by administrative offset to only those delinquent debts which have been accelerated. There is no requirement in the Debt Collection Act which restricts use of administrative offset to accelerated debts. Furthermore, the commenter's contention that offset of CCC/ASCS payments will have a substantial impact on the number of farmers participating in CCC price support and conservation reserve programs is belied by the size of the programs themselves. Out of the total participating farmers who annually receive billions of dollars in CCC payments (over $30 billion in fiscal year 1987 [5]), as noted above, FmHA collected only $4.26 million by offset from 1,369 farmers in the entire first year of the use of the administrative offset. The limited nature of the offsets taken during the year-long period in which FmHA pursued offsets, approximately one-tenth of one percent of the total CCC payments, does not seem to pose a threat to the ability of CCC/ASCS to accomplish its program goals.

This same commenter disputed FmHA's conclusion in the preamble to the proposed rule that the administrative offset program would not result in an "annual effect on the economy of $100 million or more * * *." As discussed above, FmHA does not contemplate offsets of this magnitude based on FmHA's previous experience with administrative offset.

This commenter also asserted that offset may reduce participation in ASCS/CCC programs, thereby discouraging participation in programs

designed to control supplies of commodities, with a resulting impact on competition in foreign and domestic markets. We do not share this concern. The only time a farmer will be at risk of administrative offset is after the farmer's loan has been accelerated. We do not believe that many farmers will elect not to participate in the ASCS/CCC programs because of the possibility that if they default on their loan they will lose their ASCS/CCC payments. At the time the loan has been accelerated, even more serious threats to borrowers exist, such as the imminent loss of their farm, not just ASCS/CCC payments. In addition, factors besides receipt of ASCS/CCC program payments in the upcoming year influence a farmer's decision to participate in the ASCS/CCC programs. For example, the individual may continue to participate in these programs to retain the base allotment for that farm and commodity even if the farmer is concerned that an acceleration of his or her FmHA loan will trigger administrative offset of ASCS/CCC payments. Finally, FmHA is not aware that fewer of its borrowers participated in ASCS/CCC programs during 1987, when the administrative offset program was in effect, than prior to 1987 or after 1987, when administrative offset was not in effect.

One comment objected to language in the preamble to the proposed rule which states that the meeting regarding administrative offset could be combined with any meeting on other debt servicing matters taking place. It was not intended that for FmHA farm program loans the meeting on administrative offset would be combined with any meeting regarding primary and/or preservation loan servicing occurring prior to the issuance of a Notice of Intent to Take (or Continue) Adverse Action. The meeting on administrative offset could, however, be combined with any meetings which occur after issuance of a Notice of Acceleration, both in farm program cases and in FmHA's other loan programs.

Another comment addressed the need for a face-to-face meeting concerning administrative offset after any meetings to discuss primary and preservation servicing. Offset will not be considered until after an account is accelerated and face-to-face meetings concerning administrative offset will not be held until after acceleration. If the borrower is a farm program borrower, by this time the borrower will have been considered for all servicing rights under the Agricultural Credit Act of 1987.

Discussion of other comments regarding specific sections of the Notice of Proposed Rule Making follows:

1951.101. One comment addressed pension funds and requests that FmHA ensure that pensions are not offset unless they are owed by the Federal Government. Offset of federal retirement payments is in accordance with procedures established by the federal Office of Personnel Management, 5 CFR part 831. FmHA has no ability to offset retirement funds which are not owed by the Federal Government.

1951.102. Another comment asked that FmHA review offset requests from other agencies to determine if the offset should be effected. Letters to FmHA from other federal agencies requesting offset must include a certification that all of the applicable requirements of 31 U.S.C. 3716 and 4 CFR part 102 have been met. Under the Debt Collection Act it is the responsibility of the debtor agency to determine if the requirements for an offset have been met. The FmHA Administrative Offset regulation clearly points out that FmHA loan programs will not be subject to offset by another Federal agency.

1951.102(b). One comment discussed the offset of amounts designated for the purchase of goods and services. This aspect of the rule relates to contractual procurement by the Federal Government and states that such amounts may be offset if the Federal agency has received the goods or services and offset could be made without conflict with the purposes of the payment. The comment asks that the regulation be clarified to ensure that, if a borrower makes purchases in anticipation of receiving an FmHA loan disbursement to pay for the goods, the loan will not be offset. FmHA has determined that its loan funds will not be subject to offset at the request of another Federal agency.

1951.103(b). Clarification of the meaning of "delinquency" as used in this section was requested. This section explicitly states that accounts must be accelerated before offset issued. Once a loan has been accelerated, the entire outstanding principal and unpaid interest are delinquent. The Agency does not find it necessary to make any changes to this section.

1951.103(c). Several comments were received on this section. One comment requested that a review of State law be done prior to offset to determine when offset will be permitted. Any State supplements required by differences in law among the various States will be prepared, with the advice of the regional Office of the General Counsel (OGC), by the appropriate FmHA State Office and will be distributed to all FmHA county offices in that State. This is in the regulation, although a clarification has been made to specifically require the involvement of OGC.

Another comment involving this section requested that FmHA defer to State legal authority in determining offset eligibility. FmHA will continue to make decisions concerning the status of borrower accounts and the reinstatement of those accounts. While aspects of those decisions may be based, in part, on State law, the decision rests with FmHA and OGC, not State authorities. The suggestion is not adopted.

1951.103(e). A commenter recommended that United States Attorney be used to rule on the definition and purpose of Federal farm program payments from the various agencies which make such payments This is a matter committed to the discretion of the Secretary of Agriculture. The suggestion is rejected.

1951.103(f). One commenter wanted to make sure that offset will not be taken when there is a pending bankruptcy. If the borrower is currently in a bankruptcy proceeding, offsets will only be taken as permitted by the Bankruptcy Code. If the borrower's debt has been discharged and the borrower has not reaffirmed the debt, FmHA will not seek to recover any portion of the debt by administrative offset. This section has been revised to clarify this intent.

1951.103(g). A comment contended the language regarding the statute of limitations on using administrative offset was confusing. This section has been rewritten to clarify the requirement for OGC approval of offsets resulting from debts more than six years old. We have also provided that under no circumstances will administrative offset be used to collect debts more than 10 years old.

1951.103(h). Another comment requests clarification of § 1951.103(h). This section clearly states that FmHA will not use administrative offset to collect debts owed by State and local governments. FmHA has no authority to offset payments made under the Social Security Act, made by State and local governments, or made by the Internal Revenue Service, except as specifically mentioned in this section. The references to debts arising under the Social Security Act and the Internal Revenue Code has been removed for clarity. This section is consistent with the comparable provisions in the Joint Standards, 4 CFR § 102.3(b)(4).

1951.104. One comment requested that changes to FmHA Form Letter 1951–1 be published in proposed form for comment before finalizing it. This form is the notification to the debtor of FmHA's intention to seek administrative offset. This form will be changed to reflect changes in the Administrative Offset regulation and to make other changes which explain the provisions in the regulation. The provisions of the regulation, however, and not the language of the form, govern the implementation and operation of administrative offset. The form is not a rule or regulation requiring publication. FmHA does not intend to publish this form, either for comment or in final form. As with all other FmHA forms, a copy of this form is available upon request from any FmHA office.

1951.104(b). A commenter requested that the deadlines for responding to the notice of administrative offset be extended. The regulation has been revised to allow more time for inspection and copying of records.

1951.104(d). One comment criticized the proposal to send offset notices by both certified and ordinary mail. Contrary to the commenter's assertions, there is no requirement in the Debt Collection Act that a debtor whose debt is to be partially collected by administrative offset must receive personal notice of the impending offset. FmHA believes that the procedure in the regulation providing for notice by both certified mail and regular mail satisfies the requirements of the Debt Collection Act and the Joint Standards and provides reasonable assurance that the debtor will be notified. However, the Agency agrees that the 3 day period which was proposed may not be sufficient to ensure delivery, and the regulation has been rewritten to allow 10 days.

1951.104(g). Three comments were received on this section. One comment suggested that guidelines be developed to enable county offices to determine what constitutes "extreme hardship". This section has been amended to state that, since only accounts which have been accelerated are offset, hardship exemptions are intended to be limited to situations where the imposition of administrative offset would deprive the borrower and his or her immediate family of the essential living expenses for food, shelter, or necessary medical care. Prior to acceleration of a farm program loan, FmHA employees are required to ensure that funds which would otherwise be security for the loan are available for essential family living expenses. FmHA personnel are competent to determine what is necessary for essential family living expenses after acceleration and should avoid administrative offset in such cases.

The regulation does not contemplate that offset will be delayed because a debtor appeals. The hardship exemption provisions will prevent completed offsets from irreparable damage to debtors. The Agency has determined that subject to the hardship exemption, failure to take the offset would prejudice the government's ability to collect the debt.

Another comment pertaining to this section suggested that hardship cases be reviewed by the County Committee. The duties of FmHA County Committees are set forth in the Consolidated Farm and Rural Development Act and do not encompass review of administrative offset. As mentioned above, County Supervisors are charged with the responsibility for determining a borrower's essential family living expenses before acceleration, so they are already familiar with the determination which will have to be made in the context of administrative offset. FmHA does not adopt this suggestion.

The third comment requested that the FmHA County Office be required to document their consideration of each issue raised in § 1951.103. FmHA County Offices are already required to consider all servicing options prior to acceleration and to fully document each option considered. At the time of acceleration, all options have been explored and documented in the borrower's case file, and we believe that further documentation specifically discussing administrative offset is not necessary. However, this section does provide that the reasons for decisions on claims of extreme hardship will be documented in the debtor's case file.

1951.104(i). Two comments were received which commented on the appeal process. One addressed the ability of the FmHA National Appeals Staff (NAS) to review hardship decisions and suggested that the Agency specifically define what issues are to be reviewed by NAS. Section 1951.104(i) states that decisions inconsistent with the Administrative Offset regulation are appealable, and would include decisions based on hardship determinations. It is the intention of this section that NAS be able to review decisions that are generally left to the discretion of the decision maker to ensure that the decision maker has given appropriate consideration to the relevant information available to him or her at the time the decision was made and to make sure the decision maker did not abuse his or her discretion. This is not to say that the NAS would substitute its judgment on the actual decision but would simply be reviewing the judgment of the decision maker to determine whether relevant materials were appropriately considered by the Agency.

Another comment in connection with the appeals procedure discussion requests that offset be stayed pending the completion of the appeals process. The basis for the request is that staying the offset would allow borrowers to support their families and to continue their farming operations, such as planting, harvesting, and caring for livestock. The Agency has decided not to implement this proposal since we believe the extreme hardship provision will ensure that funds which are necessary for essential family living expenses will not be offset. It should be recognized that offset occurs only after the loan has been accelerated, at a point when there will be no further releases of income from the sale of property that is security for a farmer program loan. If a debtor successfully challenges an administrative offset on appeal, the regulation provides that the full amount offset plus interest from the date of offset will be paid to the debtor.

1951.105(b)(2). One comment questioned whether the Agency will escrow offset collections as a means of circumventing state requirements that payments on a loan after acceleration may void the acceleration. This comment requests clarification that offset collections will not be escrowed but will be immediately applied to the loan. This clarification has been made. FmHA will, under no circumstances, escrow amounts collected through offset and the regulation has been rewritten to make this clear.

1951.105(b)(3). One commenter requested a definition of the time period within which refunds would be made after a favorable appeal decision. The word "promptly" has been removed and replaced by "within 45 days."

1951.105(b)(4). One comment discussed the length of time offset will continue. The letter notifying the borrower includes the amount that will be offset. The Agency believes this is sufficient notice that offset will continue until the debt is completely collected or unless the borrower has otherwise cured his or her delinquency.

A number of comments that were editorial in nature were received and editorial changes have been made in response.

While delinquent debts owed to FmHA remain unpaid, FmHA must borrow money to operate which increases the Federal deficit. Increased Government borrowing causes interest rates to rise and reduces the availability of credit in the country. The Debt Collection Act of 1982 (31 U.S.C. 3701, 3711 and 3716–19) and the Attorney General-Comptroller General's joint claims collection standards (4 CFR parts 101–105) contain specific and detailed requirements which agencies of the Department must follow in order to collect.

List of Subjects

7 CFR Part 1900

Appeals, Credit, Loan programs—Housing and community development.

7 CFR Part 1951

Account servicing, Loan programs—Agriculture, Accounting, Credit, Low and moderate incoming housing loans—Servicing

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1900—GENERAL

1. The authority citation for part 1900 is revised to read as follows:

Authority: 7 U.S.C. 1989; 31 U.S.C. 3701; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Adverse Decisions and Administrative Appeals

2. Section 1900.51 is amended in paragraph (b) by adding a new sentence at the end of the paragraph, and by adding a new paragraph (f) to read as follows:

§ 1900.51 General.

* * * * *

(b) * * * The provisions of this part also apply to appeals from decisions by FmHA under Subpart C of Part 1951 of this chapter to initiate administrative offsets.

* * * * *

(f) Administrative offsets initiated under Subpart C of Part 1951 of this chapter will not be stayed pending the hearing and any further review of the decision to initiate the offset.

PART 1951—SERVICING AND COLLECTIONS

Subpart C—Offsets of Federal Payments to FmHA Borrowers

3. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

4. Section 1951.101 is revised to read as follows:

§ 1951.101 General.

The Federal Claims Collection Act of 1966 as amended by the Debt Collection Act of 1982 and the Deficit Reduction Act of 1984 provides for the use of administrative, salary, and Internal Revenue Service (IRS) offsets by government agencies, including Farmers Home Administration (FmHA), to collect delinquent debts. Any money that is or may become payable from the United States to an FmHA borrower or other individual or entity indebted to the Agency may be subject to offset for the collection of a debt owed to FmHA. In addition, money may be collected from the debtor's retirement payments for delinquent amounts owed to FmHA if the debtor is an employee or retiree of a Federal agency, the U.S. Postal Service, the Postal Rate Commission, or a member of the U.S. Armed Forces or the Reserve. Amounts collected will be processed as regular payments and credited to the borrower's account. FmHA will process requests by other Federal agencies to offset amounts otherwise payable to FmHA in accordance with § 1951.102 of this subpart.

5. Sections 1951.102 through 1951.104 are added to Subpart C to read as follows:

§ 1951.102 Standards and procedures for administrative offset requests received by FmHA.

(a) Requests made by other Federal agencies to FmHA to offset moneys to be paid to FmHA's debtors, including borrowers, contractors and grantees, must contain a written statement of the debt (including, where applicable, a separate statement of principal owed and overdue interest owed as of a given date, and the amount of interest currently running) owed by the debtor to the requesting agency, the due date of the debt, a description of the basis for the debt, and a certification that all of the applicable requirements of 31 U.S.C. 3716 and 4 CFR Part 102 have been met. Requests for offset will be sent to the appropriate FmHA State Director.

(b) Upon receipt of a request satisfying the requirements of paragraph (a) of this section, FmHA will effect an administrative offset from moneys payable to the debtor, giving written notice to the debtor, unless the offset might result in substantial interference with, or defeat the purpose of FmHA's programs. For example, where the payment sought to be offset is a loan, offset will not be made since the debtor would not be able to use the loan funds for the intended purpose. Similarly, where the payment sought to be offset is an advance payment under a contract to purchase goods, FmHA will not make the requested offset because the debtor would in all likelihood refuse to furnish the goods. However, where the payment is being made to compensate for past performance, the offset will be effected. For example, where the payment sought to be offset is for goods already furnished, the offset could be made without conflict with the purpose of the payment.

(c) If FmHA determines not to effect an offset, a written statement, including the reasons for the refusal, will be sent to the requesting agency and a copy of that statement will be sent to the debtor.

§ 1951.103 Procedures for FmHA-initiated administrative offset.

(a) This section explains the procedures to be followed to use administrative offset to collect amounts owed by a debtor to FmHA from payments to be made to the debtor by another Federal agency or from retirement payments to be made to a Federal or military retiree.

(b) Before another Federal agency can be asked to offset any amount, the debtor must have been given at least 30 days notice on FmHA Form Letter 1951–1, must have been afforded the rights set out in this section and, if the debtor is an FmHA borrower, the borrower's account must have been accelerated. A delinquent amount does not have to be reduced to judgment or be undisputed before offset can be used, and the payment does not have to be covered by an FmHA security instrument.

(c) Offset will not be used if, according to State law, the receipt of payments by use of administrative offset after acceleration has the effect of reinstating the debtor's account. A State supplement will be issued with the advice of the Office of General Counsel (OGC), explaining whether offset can be used in each State. Sums received through the use of administrative offset are not considered "payments" as that term is used in 7 CFR 1955.15(d)(3).

(d) Administrative offset will be used only where it is feasible. Administrative offset is not feasible where, for example, the cost to the Government of collecting by offset will exceed the amount collectible.

(e) Administrative offset will be used only where it is in the best interests of the Government. It will not be used where it would substantially interfere with, or defeat, the purpose of the

paying Agency's program. Examples of this situation are listed in § 1951.102(b) of this subpart. As another example, FmHA will not offset the initial payment for planting expenses under the Conservation Reserve Program (CRP) since an offset would possibly result in the land not being planted for conservation purposes; conversely, it will offset subsequent CRP payments which represent rental income to the debtor. In general, income supplementation and enhancement program payments by the Agricultural Stabilization and Conservation Service (ASCS) will be subject to offset. The National Office will provide guidance to FmHA County Supervisors as needed on the kinds of payments under other major Federal programs that will not be subject to offset.

(f) The use of administrative offset is limited when debtors have filed for bankruptcy. Before administrative offset in sought for a debtor who is subject to a pending bankruptcy, guidance with respect to each particular case will be sought from the OGC. The Agency will not request administrative offset for debts which have been discharged in bankruptcy.

(g) FmHA will not use offset to collect a debt more than 6 years after the Government's right to collect the debt first accrued, unless facts material to FmHA's right to collect were not known and could not reasonably have been known by the FmHA official(s) charged with the responsibility of servicing the debtor's account. Offset may then be pursued. In no event, however, may administrative offset under this subpart be used against a claim which has been accrued for more than 10 years. Prior to collecting a claim by administrative offset after the 6 year period for bringing a civil action on the claim has expired, the loan servicing official will obtain the concurrence of the OGC to pursue the offset.

(h) FmHA will not use administrative offset with respect to debts owed by any State or local government; nor with respect to payments made under the Social Security Act, the Internal Revenue Code of 1954 (IRS debts may be offset under the IRS offset procedure in §§ 1951.121–1951.127 of this subpart), or the tariff laws of the United States.

§ 1951.104 Procedures for FmHA-initiated offset.

(a) The use of administrative offset will be initiated by giving notice to the debtor of the intention to use administrative offset. Such notice shall advise the debtors of their rights to:

(1) Inspect and copy their records subject to the copying costs and hours set forth in FmHA Instruction 2018–E (available in any FmHA office);

(2) Avoid offset by paying the debt in full within 30 days;

(3) Present any reasons why administrative offset should not be used, including that the amount claimed to be owed is in error, that the use of administrative offset would create an extreme hardship, or that it would be unfair to the debtor for some other reason;

(4) Have a meeting with the decision-making official; and

(5) Obtain administrative appeal of the decision to use administrative offset.

(b) The debtor will be given 15 calendar days after receipt of the Notice to ask to inspect and/or copy his or her records, and 30 calendar days after receipt of the notice in which to:

(1) Make a written submission pursuant to paragraph (a)(3) of this section, or

(2) Request a meeting at which the borrower can make such a submission and/or orally raise any matters relevant to the proposed use of administrative offset to collect the amount owed, or

(3) Request immediate administrative appeal of the decision to use administrative offset.

(c) When a debtor cannot, for a good reason, meet the time limits set out in this section, FmHA can, in its discretion, extend the time.

(d) FmHA Form Letter 1951–1 will be used to give the notice required by this section. Notice will be sent to the debtor, by certified mail, return receipt requested, at the debtor's last known address. A duplicate copy will be mailed to the debtor, on the same day, by ordinary mail. The date of signing of the certified mail receipt will be used to compute the periods for response or, if the certified mail receipt in not signed and returned, the timeframe will commence with the tenth day after the date on which the duplicate was sent.

(e) If the debtor responds by asking for a meeting, it will be scheduled as set forth in subpart B of part 1900 of this chapter, and the debtor will be promptly advised in writing of the date, time, and place. If the response also asks to inspect and/or copy records, the response will give the debtor an opportunity, within 10 working days after receipt of the request, to inspect and/or copy those records. The letter will explain where the records are and when the debtor can inspect and/or copy them. The meeting will be scheduled not less than 10 working days after the date on which the debtor is allowed to inspect and/or copy his or her records. At the meeting the debtor will be given an opportunity to present any evidence or arguments as to why administrative offset should not be used.

(f) If the debtor asks to inspect and/or copy records, but does not ask for a meeting, the debtor should, at the time of record inspection and/or copying, again be offered a meeting so that he or she will have an opportunity to discuss the contents of those records, or any other relevant matter, before FmHA actually begins to use administrative offset. This offer may be made orally and will be documented in the debtor's case file.

(g) Extreme hardship or unfairness to the debtor in using administrative offset are matters that are within the discretion of the FmHA County Supervisor or other decision-making official. The reasons for decisions on claims of extreme hardship or unfairness will be documented in the debtor's case file. Substantial medical expenses, or the lack of funds (other than those to be offset) for essential family living expenses, especially when the debtor's family includes dependent minor children, are examples of situations in which a decision not to use administrative offset may be justified. Extreme hardship exemptions are intended to be limited to providing food, shelter and medical care for the borrower's immediate family. In its discretion, FmHA may, as a condition to declining to use administrative offset because of extreme hardship or unfairness, require the debtor to enter into a written agreement concerning payment of the indebtedness and can require adequate security for such agreement.

(h) FmHA will respond promptly to all written or oral requests or presentations made by debtors under this section. Decisions to be made after a meeting with a debtor will be made promptly, and will be promptly communicated in writing to the debtor. If a request not to use offset is denied, either in response to a written submission or to matters raised at a meeting, the letter communicating that decision will also advise the debtor of his or her rights to administrative appeal. Other Federal agencies will not be requested to offset amounts before FmHA has mailed or hand delivered a letter to the debtor communicating its decision in response to any matters raised at a meeting or in response to a submission in writing.

(i) Decisions to use administrative offset are appealable under Subpart B of Part 1900 of this chapter. If the debtor is an FmHA borrower who has not had another opportunity to appeal FmHA's determinations on the indebtedness itself, the appeal will include

consideration of any issues concerning the debt that the debtor wishes to raise.

(j) Any borrower who had funds offset prior to December 1987, or who on the effective date of this subsection is still subject to an outstanding notice of offset (i.e., FmHA Form Letter 1951–3 has been sent and not retracted as of the effective date of this regulation) will be notified that he or she will be permitted to request an administrative hearing in accordance with the provisions of this regulation. The borrower may request a hearing if the borrower believes the previous offset actions by FmHA is contrary to this Administrative offset regulation.

6. Section 1951.105 is revised to read as follows:

§ 1951.105 Procedures for taking funds by administrative offset.

(a) *Requesting administrative offsets.* Administrative offset requests to other Federal agencies will be initiated by completing FmHA Form Letter 1951–3 and sending it to any Federal agency likely to have money scheduled for payment to the debtor. The debtor and the FmHA State Director, will be sent a copy of this form letter when it is sent to the other Federal agency.

(b) *Application of payments, refunds and overpayments for administrative offsets.* (1) Only amounts that are delinquent can be collected by offset. Therefore, if an FmHA Form Letter 1951–3 is submitted to another Federal agency which owes a debtor an amount in excess of the FmHA delinquency, the excess will be remitted to the debtor by the other Federal agency.

(2) Administrative offset payments will be processed in accordance with Subpart B of this part, including depositing the payments in the Concentration Banking System or sending the payments to a wholesale lockbox bank. The offset payments will be applied to the debtor accounts as regular payments. Under no circumstances will funds collected under administrative offset be held in an escrow account.

(3) Refunds of amounts offset, plus interest, will be made within 45 days, pursuant to the provisions of 7 CFR 1951.13(b), if FmHA determines that an amount should not have been offset or that the debtor has won an administrative appeal. The ninety-day Treasury bill rate, as published in Exhibit B to FmHA Instruction 440.1 (available in any FmHA office), in effect on the date the amounts were offset by the creditor agency, will be used to calculate interest payable to the debtor.

(4) The County Supervisor will record all borrowers referred for and/or collected through administrative offset on Form FmHA 1951–16, "Detail Report of Administrative Offset." The unpaid interest and unpaid principal amounts referred for offset should be reported only one time when first referred and obtained from FmHA Form Letter 1951–3. Form FmHA 1951–16 will be filed in operational file B. At the close of each quarter, the County Supervisor will consolidate the information reported on Form FmHA 1951–16 into Form FmHA 1951–17, "Consolidated Report of Administrative Offset." The consolidated county report will be forwarded to the State Administrative Officer within 5 days after the end of each quarter (e.g., October 5, January 5, April 5, and July 5). If there is no activity for the quarter, a negative report is required. Using Form FmHA 1951–17, the State Administrative Officer will consolidate the reports received from the County Offices. The consolidated state report will be forwarded to the Finance Office, mail code FC–360A, within 10 calendar days after the end of each quarter (e.g., October 10, January 10, April 10, and July 10). If there is no activity for the quarter, a negative report is required.

(c) *Cancellation of administrative offset.* FmHA will promptly cancel administrative offset requests by written notification to every other Federal agency from which administrative offset was requested if, because of debtor payments or any other reason, FmHA is no longer entitled to administrative offset from payments to be made to a debtor.

Dated: March 1, 1990.

Roland R. Vautour,

Under Secretary for Small Community and Rural Development.

Editorial Note.—This appendix will not appear in the Code of Federal Regulations.

Appendix A—Endnotes

1. Testimony of Administrator Vance L. Clark, Administrator of FmHA, Hearing before the Subcommittee on Conservation, Credit, and Rural Development of the Committee on Agriculture, House of Representatives, 100th Cong., 1st Sess., December 3, 1987, Serial No. 100–51, at 22.

2. Stipulation dated December 7, 1987, in Moseanko, et al. v. Lyng, et al., Civil No. A1–87–196 (D.N.D., filed November 23, 1987). A similar stipulation, also affecting only North Dakota, was entered into on December 7, 1989, in State of North Dakota v Lyng, et al., Civil No. A1–87–197 (D.N.D., filed November 23, 1987).

3. The 1951–3 notice is the notice FmHA sends to another Federal agency notifying that agency payments should be made to FmHA rather than to the debtor. See § 1951.105(d) of the November 26, 1985, rule and § 1951.105(a) of the rule promulgated herein.

4. See Comptroller General Opinion B–220243 (May 23, 1986), "Billions Are Owed While Collection and Accounting Problems Are Unresolved" which, among other things, was critical of a number of agencies, including FmHA, for failing to expedite the publication of regulations governing debt collection tools such as administrative offset.

5. See Report of Financial Conditions and Operations of CCC, September 30, 1987, Tables 2, 7, and 8 (GPO 88–516–000/81034, May 1988).

[FR Doc. 90–6808 Filed 3–21–90; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–ASW–22; Amdt. 39–6514]

Airworthiness Directives; Aerospatiale (Societe Nationale Industrielle Aerospatiale) (SNIAS) Model AS 350 and AS 355 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This notice corrects an amendment number previously published in the **Federal Register** (55 FR 5833; February 20, 1990) on an AD for Aerospatiale Model AS 350 and AS 355 series helicopters. The correct amendment number is Amendment 39–6514 instead of Amendment 39–6515.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Mathias, FAA, Rotorcraft Standards Staff, Rotorcraft Directorate, Fort Worth, Texas 76193–0110, telephone (817) 624–5123.

Issued in Fort Worth, Texas, on March 1, 1990.

Robert T. Weaver,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 90–6744 Filed 3–23–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 89–NM–246–AD; Amdt. 39–6555]

Airworthiness Directives; Sud-Service Caravelle SE 210 Models III and VIR Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Sud-Service Caravelle SE 210 Models III and VIR series airplanes, which requires repetitive inspections to detect cracks in the left-hand forward passenger door frame, and repair, if necessary. This amendment is prompted by reports of cracks discovered on in-service airplanes in the upper corners of the left-hand forward passenger door frame. This condition, if not corrected, could lead to failure of the passenger door frame and subsequent decompression of the airplane.

EFFECTIVE DATE: May 1, 1990.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Rue de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Huhn, Standardization Branch, ANM-113; telephone (206) 431-1950. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all Sud-Service Caravelle SE 210 Models III and VIR series airplanes, which requires repetitive inspections to detect cracks in the left-hand forward passenger door frame, and repair, if necessary, was published in the **Federal Register** on December 19, 1989 (54 FR 51893).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 5 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Sud-Service (formerly Sud Aviation): Applies to Sud-Service Caravelle SE 210 Models III and VIR series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of the left-hand forward passenger door frame and subsequent decompression of the airplane, accomplish the following:

A. Prior to the accumulation of 20,000 landings, or within 50 landings after the effective date of this AD, whichever occurs later, perform one of the following inspections in accordance with Sud-Service Service Bulletin 53-56, dated October 21, 1988:

1. Perform a visual inspection of the skin plating, stamping, and visible edge of the fitting, plus a dye penetrant inspection of the fitting edge; or

2. Perform an X-ray inspection in accordance with the following maintenance manuals:

a. For Mark III airplanes—Chapter 53-1-1, Figure 606;

b. For Mark VIR airplanes—Chapter 53-1-1, Figure 604; or

3. Perform an inspection of holes by defectometer, after removal of fasteners identified on Figure 606 (Mark III) or Figure 604 (Mark VIR), as applicable; or

4. Perform an inspection of holes by rototest, after removal of fasteners identified on Figure 606 (Mark III) or Figure 604 (Mark VIR), as applicable.

B. If no cracks are found, repeat the inspections at the following intervals:

a. If the immediately preceding inspection was performed by visual method and dye check, the next inspection must be performed within 100 landings.

b. If the immediately preceding inspection was performed by X-ray, the next inspection must be performed within 300 landings.

c. If the immediately preceding inspection was performed by defectometer, the next inspection must be performed within 2,000 landings.

d. If the immediately preceding inspection was performed by rototest, the next inspection must be performed within 4,000 landings.

C. If cracks are found, repair prior to further flight, in accordance with Sud-Service Service Bulletin 53-56, dated October 21, 1988. Thereafter, repeat visual inspections of the fasteners around the edge at intervals not to exceed 500 landings, and replace with a new fitting prior to the accumulation of 5,000 landings, in accordance with the service bulletin.

D. Upon the installation of a new fitting, perform the initial inspection prior to the accumulation of 20,000 landings, in accordance with paragraph A., above, and thereafter at intervals specified in paragraph B., above.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

F. Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Rue de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 1, 1990.

Issued in Seattle, Washington, on March 16, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-6745 Filed 3-23-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ANM-016]

Amendment of Medford Control Zone, Medford, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Medford, Oregon, Control Zone by increasing the size of controlled airspace for the establishment of an instrument approach to the Medford-Jackson County Airport. The additional airspace would segregate aircraft operating under Visual Flight Rules (VFR) conditions from aircraft operating under Instrument Flight Rules (IFR) procedures. The area will be depicted on aeronautical charts to provide a reference for the aviation public.

EFFECTIVE DATE: 0901 U.T.C., May 3, 1990.

FOR FURTHER INFORMATION CONTACT: Jerry Parker, ANM-538, Federal Aviation Administration, Docket No. 89-ANM-016, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, telephone: (206) 431-2525.

SUPPLEMENTARY INFORMATION:

History

On December 11, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for establishment of a VHF omnidirectional range/distance measuring equipment (VOR/DME) approach to the Medford Jackson County Airport, Oregon. (54 FR 50770)

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations will provide additional controlled airspace for establishment of a visual omnidirectional range/distance measuring equipment (VOR/DME) approach to the Medford-Jackson County Airport, Oregon. The additional airspace would segregate aircraft operating under Visual Flight Rules (VFR) conditions from aircraft operating under Instrument Flight Rules (IFR) procedures. The area would be depicted on appropriate aeronautical charts, thereby enabling pilots to circumnavigate the area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR, part 71), is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amendment]

2. Section 71.171 is amended as follows:

Medford, OR [Amended]

On the second line change coordinates to: "(lat. 42°22'21" N. long. 122°52'17" W.)" On the sixth line after "VORTAC" add—"and within 4.5 miles each side of the Medford VORTAC 164 radial extending from the 5 mile radius zone to 26 miles south of the Medford-Jackson County Airport."

Issued in Seattle, Washington, on March 2, 1990.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 90-6746 Filed 3-23-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

RIN 0960-AC31

[Regs. Nos. 4 and 16]

Consideration of Vocational Factors

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These regulations reflect longstanding policies which the Social Security Administration follows in making disability determinations and remove an ambiguity which exists in the present regulations regarding the factors that we consider when we determine that a claimant is not disabled because he or she is able to do his or her past work. These regulations do not reflect a substantive change in policy; they are intended only to clarify the longstanding agency implementation of the provisions of the Social Security Act (the Act) and their legislative history relating to disability determinations.

DATES: These rules are effective March 26, 1990.

FOR FURTHER INFORMATION CONTACT: William J. Ziegler, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone (301) 965-1759.

SUPPLEMENTARY INFORMATION: Sections 223(d)(2)(A) and 1614(a)(3)(B) of the Act provide that an individual shall be determined to be under a disability "* * * only if his * * * impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy * * *." This statutory language contemplates consideration of a claimant's vocational factors of age, education, and work experience only in connection with the inquiry into the claimant's ability to do other work, not the kind of work done in the past.

In adjudicating a claim for benefits based on disability, we use a five-step sequential evaluation process set out at §§ 404.1520 and 416.920. At step four of this process, if we have not allowed or denied the claim under one of the first three steps, we determine whether the claimant is able to do any relevant work he or she did in the past. If the claimant can do relevant work he or she did in the past, the claimant is not disabled. If he or she cannot do that past relevant work, we must then decide at the fifth and final step whether, considering the claimant's age, education, and work experience, the claimant can perform other work which exists in the national economy.

In various sections throughout 20 CFR part 404, subpart P, including appendix 2 to that subpart, and part 416, subpart I, and in Social Security Rulings our policy is consistently stated that we consider the vocational factors of age, education, and work experience only in determining whether a claimant is capable of doing any work other than that which he or she did in the past.

Although sections 223(d)(2)(A) and 1614(a)(3)(B) of the Act, and the regulations we have promulgated to reflect these provisions, contemplate consideration of the vocational factors only in connection with the inquiry we make at step five of the sequential evaluation process into the ability of the claimant to do other work, §§ 404.1560 and 416.960 do not state this longstanding interpretation of the statute with sufficient clarity. The existing ambiguity in these regulatory provisions was pointed out in *Velazquez v. Heckler*, 802 F.2d 680 (3d Cir. 1986). To remove this ambiguity, we are amending these two provisions to state, pursuant to our longstanding implementation of these provisions of the Act and their legislative history, that we do not consider the vocational factors of age, education, and work experience in determining whether a claimant is able to do his or her past relevant work.

These changes emphasize at what step in the sequential evaluation process we consider the vocational factors of age, education, and work experience. We are clarifying the current regulations at §§ 404.1560 and 416.960 to emphasize that consideration of whether a person can do past relevant work involves only the comparison of residual functional capacity with the physical and mental demands of that work and does not involve consideration of vocational factors.

Public Comments

We published proposed rules with a notice of proposed rulemaking in the **Federal Register** on June 9, 1988 (53 FR 21685). Interested persons and organizations were given 60 days to comment. The comment period closed on August 8, 1988.

We received comments from four commenters: A State agency that makes disability determinations, an organization representing agencies and professionals that provide rehabilitation services to mentally ill adults, and two attorneys who represent claimants. We have carefully considered all of the substantive comments we received, but, for the reasons explained below, did not adopt any of the recommendations in these comments. However, we made some clarifying changes to paragraph (c) of §§ 404.1560 and 416.960. The changes, which are editorial rather than substantive, do not change the meaning as stated in the proposed regulations.

Comment: The State agency had only one comment. This was a suggestion that we define the term "past relevant work" in the regulations to avoid confusion with the term "work experience," which is defined in existing regulations. One of the attorneys, and the organization which represents rehabilitation service providers for mentally ill adults, stated that past relevant work should refer only to the individual's specific past job, and not the occupation as generally performed in the national economy. Similarly, the two attorneys stated that we should not consider occupations which have undergone technological change, short-term, vaguely remembered occupations, or foreign occupations which do not exist in the national economy as past relevant work.

Response: We use the term "past relevant work" only in connection with the determination as to whether an individual can perform the kind of work he or she did in the past. The term "work experience" refers to the skills and abilities an individual has acquired through work which show the type of work, other than past work, that an individual may be expected to do.

We are examining all the disability regulations to determine the need for restructuring and further clarification. The ongoing examination includes a review of how we consider and define past relevant work, and we will consider these comments in regard to that broader effort. Such consideration exceeds the scope of these final rules which are limited to a clarification of when we consider an individual's age, education, and work experience.

Comment: The two attorneys expressed the view that the clarification is actually a policy change which would remove the vocational factors of age, education, and work experience from the determination of whether an individual can perform his or her past relevant work.

Response: We do not agree With these two comments. As stated in the preamble to the proposed rules, we believe that the statutory language in sections 223(d)(2)(A) and 1614(a)(3)(B) of the Act contemplates consideration of the vocational factors of age, education, and work experience only in connection with the inquiry we make at step five of the sequential evaluation process. At step five we determine an individual's ability to do other work. Applicable sections of the existing regulations which outline the sequential evaluation process, and which we are not changing, are consistent with this view. Sections 404.1520(e) and 416.920(e) state that we review an individual,s residual functional capacity, and the physical and mental demands of his or her past work, to determine whether the impairment(s) prevents the individual from doing past relevant work. Sections 404.1520(f)(1) and 416.920(f)(1), on the other hand, state that we review an individual's residual functional capacity and his or her age, education, and work experience to determine whether the impairment(s) prevents the individual from doing other work. Similarly, section 200.00(a) of Appendix 2 to 20 CFR part 404, subpart P, states that the medical-vocational rules reflect the analysis of the various vocational factors of age, education, and work experience, in combination with the individual's residual functional capacity, in evaluating the individual's ability to engage in substantial gainful activity in other than his or her vocationally relevant past work.

Throughout the history of the disability programs, we have not considered the vocational factors of age, education, and work experience when we determine whether an individual can perform the kind of work he or she did in the past. Therefore, this clarification does not represent a policy change. Rather, it emphasizes what has always been our policy.

Comment: One commenter views the determination of ability to do past relevant work as a purely medical assessment.

Response: In determining the ability to do past relevant work, we compare an individual's residual functional capacity, which is based on objective medical evidence, and any other materinl

evidence, with the physical and mental demands of past relevant work. This evaluation of past relevant work necessarily involves nonmedical considerations.

Comment: The two attorneys stated that we often exclude or understate an impairment's degenerative effects caused by aging in the residual functional capacity assessment.

Response: This is not a matter related to this particular regulatory clarification. It is an apparent adjudicative issue regarding residual functional capacity to be dealt with as appropriate in each individual case.

Comment: One of the attorneys focused on age as a vocational factor, noting our recognition of its possible deteriorative effects and referring to the need to consider it in a highly individualized and flexible manner.

Response: These statements pertain to the consideration of age in determining the ability to do other work which occurs at step five of the sequential evaluation process, not in determining the ability to do past work, which occurs at step four of the sequential evaluation process, so they do not pertain to this regulatory clarification.

Comment: The organization which represents rehabilitation service providers for mentally ill adults stated that mental illness is often episodic and the exclusion of vocational factors has led to inappropriate decisions of not disabled. The organization opposed the exclusion of vocational factors at step four of the sequential evaluation process and urged rejection of the proposed regulations.

Response: The nature of the impairment does not affect the sequential evaluation process. In connection with the inquiry we make at step five of the sequential evaluation process to determine an individual's ability to adjust to other work, we consider the vocational factors of age, education, and work experience for individuals with mental illness or any other impairment. However, regardless of the type of impairment, we do not consider the vocational factors of age, education, and work experience in connection with the inquiry we make at step four of the sequential evaluation process to determine an individual's ability to do past relevant work.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations do not meet any of the threshold criteria for a major rule. SSA estimates this clarification will have little or no impact on title II or title XVI benefit payments or administrative costs. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only disability claimants and beneficiaries under title II and title XVI of the Social Security Act. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget. All information necessary to make the disability decisions discussed in these regulations is presently collected using forms which have the Office of Management and Budget's clearance.

(Catalog of Federal Domestic Program Nos. 13.802, Social Security Disability Insurance; 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, survivors and disability insurance.

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental security income.

Dated: August 23, 1989.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: March 2, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, part 404, subpart P, chapter III of title 20, Code of Federal Regulations is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950 _____)

Subpart P—Determining Disability and Blindness

20 CFR part 404, subpart P, is amended as follows:

1. The authority citation for subpart P continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d) through (h), 216(i), 221 (a) and (i), 222(c), 223, 225 and 1102 of the Social Security Act; 42 U.S.C. 402, 405 (a), (b) and (d) through (h), 416(i), 421 (a) and (i), 422(c), 423, 425 and 1302; sec. 505(a) of Pub. L. 96–265; 94 Stat. 473; secs. 2(d)(2), 5, 6, and 15 of Pub. L. 98–460, 98 Stat. 1797, 1801, 1802, and 1808.

2. Section 404.1560 is revised to read as follows:

§ 404.1560 When your vocational background will be considered.

(a) *General.* If you are applying for a period of disability, or disability insurance benefits as a disabled worker, or child's insurance benefits based on disability which began before age 22 and we cannot decide whether you are disabled on medical evidence alone, we will consider your residual functional capacity together with your vocational background.

(b) *Past relevant work.* We will first compare your residual functional capacity with the physical and mental demands of the kind of work you have done in the past. If you still have the residual functional capacity to do your past relevant work, we will find that you can still do your past work, and we will determine that you are not disabled, without considering your vocational factors of age, education, and work experience.

(c) *Other work.* If we find that you can no longer do the kind of work you have done in the past, we will then consider your residual functional capacity together with your vocational factors of age, education, and work experience to determine whether you can do other work. By other work we mean jobs that exist in significant numbers in the national economy.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—Determining Disability and Blindness

For the reasons set out in the preamble, part 416, subpart I, chapter III of title 20, Code of Federal Regulations, is amended as set forth below.

1. The authority citation for subpart I is revised to read as follows:

Authority: Secs. 1102, 1614(a), 1619, 1631(a) and (d)(1), and 1633 of the Social Security Act; 42 U.S.C. 1302, 1382c(a), 1382h, 1383 (a) and (d)(1), and 1383b; secs. 2, 5, 6, and 15 of Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808.

2. Section 416.960 is revised to read as follows:

§ 416.960 When your vocational background will be considered.

(a) *General.* If you are age 18 or older and applying for benefits based on

disability and we cannot decide whether you are disabled on medical evidence alone, we will consider your residual functional capacity together with your vocational background.

(b) *Past relevant work.* We will first compare your residual functional capacity with the physical and mental demands of the kind of work you have done in the past. If you still have the residual functional capacity to do your past relevant work, we will find that you can still do your past work, and we will determine that you are not disabled, without considering your vocational factors of age, education, and work experience.

(c) *Other work.* If we find that you can no longer do the kind of work you have done in the past, we will then consider your residual functional capacity together with your vocational factors of age, education, and work experience to determine whether you can do other work. By other work we mean jobs that exist in significant numbers in the national economy.

[FR Doc. 90-6766 Filed 3-23-90; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co. Approval of the original NADA limited the feeding of a Type C medicated feed containing monensin to growing turkeys from 1 day of age to 10 weeks of age. The supplemental NADA provides for continuous feeding to growing turkeys.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285, is the sponsor of NADA 130-736, which provides for use of a Type A medicated article containing 45 grams of monensin per pound to manufacture a Type C medicated feed for growing turkeys. The feed is currently permitted to be fed from 1 day of age to 10 weeks of age and is intended to prevent coccidiosis caused by *Eimeria adenoeides, E. meleagrimitis,* and *E. gallopavonis.* Elanco has filed a supplemental NADA containing data that supports extending use of the medicated feed to growing turkeys that are older than 10 weeks but not mature. The supplement was approved by letter dated March 19, 1990, and 21 CFR 558.355(f)(2)(iii) is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary. Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3 years of exclusive marketing privilege from the date of approval.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.355 is amended by revising paragraph (f)(2)(iii) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(2) * * *

(iii) *Limitations.* Feed continuously as the sole ration to growing turkeys from 1 day of age as monensin sodium; do not allow horses, other equines, mature turkeys, or guinea fowl access to feed containing monensin.

* * * * *

Dated: March 19, 1990.

Robert C. Livingston,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 90-6754 Filed 3-23-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 600, 601, 606, 607, 610, 620, 630, 640, 650, 660, and 680

[Docket No. 89N-0082]

Certain Biologics Regulations; Editorial Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending certain of its biologics regulations to update the titles and mailing symbols of certain organizational units. This action will improve the accuracy and clarity of the regulations.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Rose Marie Wilson, Regulations and Bioresearch Monitoring Staff (HFB-130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION: FDA is amending certain of its biologics regulations in parts 600, 601, 606, 607, 610, 620, 630, 640, 650, 660, and 680 of title 21 of the Code of Federal Regulations (CFR) to update the titles and mailing symbols of certain organizational units.

Because these amendments are nonsubstantive, notice and public procedure and delayed effective date are unnecessary (5 U.S.C. 553 (b)(B) and (d)).

List of Subjects

21 CFR Part 600

Biologics, Reporting and recordkeeping requirements.

21 CFR Part 601

Biologics, Confidential business information.

21 CFR Part 606

Blood, Labeling, Laboratories, Reporting and recordkeeping requirements.

21 CFR Part 607

Blood.

21 CFR Part 610

Biologics, labeling, Reporting and recordkeeping requirements.

21 CFR Part 620

Biologics, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 630

Biologics, Labeling.

21 CFR Part 640

Blood, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 650

Biologics.

21 CFR Part 660

Biologics, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 680

Biologics, Blood, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 600, 601, 606, 607, 610, 620, 630, 640, 650, 660, and 680 and amended as follows:

PARTS 600, 601, 606, 607, 610, 620, 630, 640, 650, 660, 680—[AMENDED]

1. Parts 600, 601, 606, 607, 610, 620, 630, 640, 650, 660, and 680 are amended by removing the words "Office of Biologics Research and Review" and by adding, in their place, the words "Center for Biologics Evaluation and Research" in the following places:

(1) Section 600.11(f)(6);
(2) Section 600.12 (b)(2) and (b)(3);
(3) Section 600.13, everywhere that it appears;
(4) Section 600.15(b);
(5) Section 600.22(e);
(6) Section 601.2(a), everywhere that it appears;
(7) Section 601.3, introductory texts of paragraphs (a) and (b);
(8) Section 601.4(a);
(9) Section 601.6(a)(2);
(10) Section 601.9(a);
(11) Section 601.12 (a) and (b);
(12) Section 601.31;
(13) Section 601.33, everywhere that it appears;
(14) Section 601.51(b);
(15) Section 606.100 (a) and (d)(3);
(16) Section 606.110(b);
(17) Section 607.25(b)(2);
(18) Section 610.2(a), everywhere that it appears;
(19) Section 610.11 (c)(2) and (c)(3);
(20) Section 610.12 (e)(2)(i) and (g)(4)(ii);
(21) Section 610.15(a)(3);
(22) Section 610.18(c)(2);
(23) Section 610.20, introductory text paragraph;
(24) Section 610.40 (a) and (e)(2);
(25) Section 620.6, introductory text of paragraph (h);
(26) Section 620.13(h);
(27) Section 620.14 (c)(2) and (c)(3);
(28) Section 620.21(b);
(29) Section 620.22;
(30) Section 620.24, introductory text of paragraph (c), paragraphs (c)(1) and (c)(3);
(31) Section 620.31(a)(1);
(32) Section 620.32, introductory text paragraph;
(33) Section 620.35, introductory text of paragraph (e), paragraphs (e)(2) and (e)(3);
(34) Section 620.43;
(35) Section 620.44(c), everywhere that it appears;
(36) Section 620.45, introductory text of paragraph (b), paragraphs (b)(1), (b)(4), and (b)(5);
(37) Section 620.48, introductory text of paragraph (a), paragraphs (a)(2) and (b);
(38) Section 630.1 (b) and (c);
(39) Section 630.2(c);
(40) Section 630.3, introductory text paragraph, and paragraph (a);
(41) Section 630.4 (e)(1) and (e)(3);
(42) Section 630.5, introductory text of paragraph (c), and paragraph (c)(4);
(43) Section 630.10 (a), (b)(2), (b)(4), (b)(5), and (b)(6);
(44) Section 630.12 (a)(1) and (b);
(45) Section 630.14;
(46) Section 630.17, introductory text of paragraph (e), and paragraph (e)(1);
(47) Section 630.30(c)(1)(iii);
(48) Section 630.33;
(49) Section 630.36, introductory text of paragraph (h), and paragraph (h)(1)(i);
(50) Section 630.50(c)(1)(ii);
(51) Section 630.53;
(52) Section 630.56, introductory text of paragraph (f), and paragraph (f)(1);
(53) Section 630.60 (d)(3) and (e)(1)(ii);
(54) Section 630.63;
(55) Section 630.66 introductory text of paragraph (e), paragraphs (e)(1)(i) and (e)(3);
(56) Section 630.70(b);
(57) Section 630.72;
(58) Section 630.74(c), everywhere that it appears;
(59) Section 630.75 (d)(1), (d)(1)(i) and (d)(2);
(60) Section 630.81;
(61) Section 630.83;
(62) Section 630.86, introductory text of paragraph (e), paragraphs (e)(1)(i) and (e)(3);
(63) Section 640.2(a);
(64) Section 640.3(a)(1), everywhere that it appears;
(65) Section 640.4(a)(1), everywhere that it appears;
(66) Section 640.6, introductory text paragraph;
(67) Section 640.17;
(68) Section 640.21(c);
(69) Section 640.22(c);
(70) Section 640.25, introductory text of paragraph (c), and paragraph (c)(3);
(71) Section 640.55;
(72) Section 640.56, introductory text of paragraph (c), and paragraph (c)(2);
(73) Section 640.64, introductory text of paragraph (c);
(74) Section 640.66;
(75) Section 640.71(b)(3);
(76) Section 640.73;
(77) Section 640.74 (a) and (b)(2);
(78) Section 640.82(b);
(79) Section 640.92(b);
(80) Section 640.101, introductory text of paragraph (f);
(81) Section 640.104, introductory text of paragraph (c);
(82) Section 640.111, introductory text of paragraph (g);
(83) Section 640.112(b);
(84) Section 650.6, introductory text paragraph, and paragraphs (a) and (c);
(85) Section 650.11, introductory text of paragraph (c), and paragraphs (c)(1) and (c)(5);
(86) Section 660.3;
(87) Section 660.5;
(88) Section 660.6 (a)(2)(iii), (b), (c)(1), (c)(2), everywhere that it appears, and (c)(3);
(89) Section 660.33;
(90) Section 660.34(d);
(91) Section 660.36 (a)(1), (b), and (c);
(92) Section 660.42;
(93) Section 660.44;
(94) Section 660.46 (a)(2)(iii), (b), (c)(1), (c)(2), everywhere that it appears, and (c)(3);
(95) Section 660.101 introductory text;
(96) Section 660.102 (b)(1) and (c)(7);
(97) Section 660.103 (d) and (g)(2)(ii);
(98) Section 660.105, introductory text of paragraph (a), and paragraph (b);
(99) Section 680.3(e);
(100) Section 680.11;
(101) Section 680.12;
(102) Section 680.21;
(103) Section 680.24(e);
(104) Section 680.26, introductory text paragraph, and paragraph (c).

2. Parts 600, 606, and 607 are amended by removing the words "Center for Drugs and Biologics" and by adding, in their place, the words "Center for

Biologics Evaluation and Research" in the following places:

(1) Section 600.10(a);

(2) Section 606.20(a);

(3) Section 606.170(b), everywhere that it appears;

(4) Section 607.22(b).

3. Parts 606, 610, 660, and 680 are amended by removing the words "Office of Biologics Research and Review (HFN–800), Center for Drugs and Biologics" and by adding, in their place, the words "Center for Biologics Evaluation and Research (HFB–1)" in the following places:

(1) Section 606.121(c)(13), introductory text of paragraph (d), and paragraphs (d)(4) and (d)(5);

(2) Section 610.9(b);

(3) Section 610.53(d);

(4) Section 660.53;

(5) Section 660.54 introductory text;

(6) Section 660.55(a)(3);

(7) Section 680.1 (b)(2)(iii), (b)(3)(iv), (c), and (d)(1).

4. Part 607 is amended by removing "§ 312.1" and by adding in its place "Part 312" in the following places:

(1) Section 607.3(e);

(2) Section 607.40(b).

5. Part 607 is amended by removing the words "Office of Compliance, Center for Drugs and Biologics (HFN–315), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857" and by adding, in their place, the words "Center for Biologics Evaluation and Research (HFB–240), 8800 Rockville Pike, Bethesda, MD 20892" in the following places:

(1) Section 607.7 (b) and (c);

(2) Section 607.22(a).

6. Part 660 is amended by removing the words "Office of Biologics Research and Review" and "(HFN–800)" and by adding, in their place, the words "Center for Biologics Evaluation and Research" and "(HFB–1)", respectively, in the following places:

(1) Section 660.6, introductory text of paragraph (a)(2), everywhere that it appears;

(2) Section 660.46, introductory text of paragraph (a)(2), everywhere that it appears.

PART 600—BIOLOGICAL PRODUCTS: GENERAL

7. The authority citation for 21 CFR part 600 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 519, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 360i, 371, 374); secs. 215, 351, 352, 353, 361 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264).

8. Section 600.3 is amended by revising paragraph (d) to read as follows:

§ 600.3 Definitions.

* * * * *

(d) "Center for Biologics Evaluation and Research" means Center for Biologics Evaluation and Research of the Food and Drug Administration.

* * * * *

§ 600.14 [Amended]

9. Section 600.14 *Reporting of errors* is amended in paragraph (a) by removing the words "Center for Drugs and Biologics (HFN–355), 5600 Fishers Lane, Rockville, MD 20857" and by adding, in their place, the words "Center for Biologics Evaluation and Research (HFB–100), 8800 Rockville Pike, Bethesda, MD 20892".

PART 601—LICENSING

10. The authority citation for 21 CFR part 601 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 513–516, 518–520, 701, 704, 706, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 360c–360f, 360h–360j, 371, 374, 376, 381); secs. 215, 301, 351, 352 of the Public Health Service Act (42 U.S.C. 216, 241, 262, 263); secs. 2–12 of the Fair Packaging and Labeling Act (5 U.S.C. 1451–1461).

11. Section 601.2 is amended in paragraph (b) by revising the first sentence to read as follows:

§ 601.2 Applications for establishment and product licenses; procedures for filing.

* * * * *

(b) * * * In lieu of submitting an establishment and product license for the manufacture of a radioactive biological product, as defined in § 600.3(ee) of this chapter, the manufacturer of such a product shall submit a new drug application to the Director, Division of Medical Imaging, Surgical, and Dental Products (HFD–160), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, consistent with the procedures set forth in § 314.50 of this chapter. * * *

§ 601.21 [Amended]

12. Section 601.21 *Products under development* is amended by removing "(21 CFR 312.1)" and replacing it with "(21 CFR part 312)".

§ 601.25 [Amended]

13. Section 601.25 is amended in paragraph (b)(2) by removing the words "office of the Hearing Clerk" and by adding, in their place, the words "Dockets Management Branch".

PART 607—ESTABLISHMENT REGISTRATION AND PRODUCT LISTING FOR MANUFACTURERS OF HUMAN BLOOD AND BLOOD PRODUCTS

14. The authority citation for 21 CFR part 607 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 505, 510, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 355, 360, 371, 374); secs. 215, 351 of the Public Health Service Act (42 U.S.C. 216, 262).

§ 607.37 [Amended]

15. Section 607.37 *Inspection of establishment registrations and blood product listings* is amended in the introductory text of paragraph (a) and in paragraph (b) by removing the words "Center for Drugs and Biologics (HFN–315), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857" and by adding, in their place, the words "Center for Biologics Evaluation and Research (HFB–100), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892".

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

16. The authority citation for 21 CFR part 610 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371); secs. 215, 351, 352, 353, 361 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264).

§ 610.2 [Amended]

17. Section 610.2 *Requests for samples and protocols; official release* is amended in paragraph (b) by removing the words "Office of Drug Research and Review" and by adding, in their place, the words "Center for Drug Evaluation and Research", everywhere that they appear.

§ 610.40 [Amended]

18. Section 610.40 *Test for hepatitis B surface antigen* is amended in paragraph (b)(4) by removing the words "Office of Biologics Research and Review" and "(HFN–800), Center for Drugs and Biologics" and by adding, in their place, the words "Center for Biologics Evaluation and Research", and "(HFB–1)", respectively, and in paragraphs (d)(1)(v) and (d)(2)(iv) by removing the words "Office of Biologics Research and Review (HFN–800)", and by adding, in their place, the words "Center for Biologics Evaluation and Research (HFB–1)".

PART 620—ADDITIONAL STANDARDS FOR BACTERIAL PRODUCTS

19. The authority citation for 21 CFR part 620 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371); secs. 215, 351, 352, 353, 361 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264).

§ 620.12 [Amended]

20. Section 620.12 *U.S. Standard preparations* is amended in the introductory text paragraph by removing the words "Office of Biologics Research and Review (HFN–890), Center for Drugs and Biologics" and by adding, in their place, the words "Center for Biologics Evaluation and Research (HFB–210)".

§ 620.14 [Amended]

21. Section 620.14 *General requirements* is amended in the introductory text of paragraph (c) by removing the words "Office of Biologics Research and Review (HFN–890), Center for Drugs and Biologics" and by adding, in their place, the words "Center for Biologics Evaluation and Research (HFB–1)".

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

22. The authority citation for 21 CFR part 660 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371); secs. 215, 351, 352, 353, 361 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264).

§ 660.36 [Amended]

23. Section 660.36 *Samples and protocols* is amended in the introductory text of paragraph (a) by removing the words "Office of Biologics Research and Review Sample Custodian (ATTN: HFN–895)" and by adding, in their place, the words "Office of Biological Product Review Sample Custodian (ATTN: HFB–215)".

§ 660.52 [Amended]

24. Section 660.52 *Reference preparations* is amended by removing the words "Center for Drugs and Biologics (HFN–890)" and by adding, in their place, the words "Center for Biologics Evaluation and Research (HFB–221)".

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

25. The authority citation for 21 CFR part 680 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371); secs. 215, 351, 352, 353, 361 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264).

26. Section 680.11 is amended by revising the section heading to read as follows:

§ 680.11 Pretesting by Center; sample of each lot.

* * * * *

Dated: March 19, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–6753 Filed 3–23–90; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–3749–1]

Idaho; Final and Interim Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on Idaho's application for final and interim authorization.

SUMMARY: Idaho has applied for final authorization of its hazardous waste program under the Resource Conservation and Recovery Act (RCRA) including a request for interim authorization for the corrective action provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA). The Environmental Protection Agency (EPA) has reviewed Idaho's application and made the determination that Idaho's hazardous waste program satisfies all of the requirements necessary to qualify for final and interim authorization. Thus, EPA is granting final and interim authorization to Idaho to operate its program, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: Final and interim authorization for Idaho shall be effective at 1 p.m. on April 9, 1990.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, Waste Management Branch, HW–112, U.S. EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442–6502.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. To qualify for final authorization, a State's program must (1) Be "equivalent" to the Federal program, (2) be consistent with the Federal program and other State programs, and (3) provide for adequate enforcement (section 3006(b) of RCRA, 42 U.S.C. 6926(b)). States applying for authorization must demonstrate a program equivalent to the Federal program in effect one year prior to the date the application is submitted.

Interim authorization is a temporary authorization which a State can request and which is granted if the evidence submitted shows State requirements are at least substantially equivalent to the Federal program requirement. See section 3006(g)(2), 42 U.S.C. 6926(g)(2). All interim authorizations pursuant to section 3006(g)(2) expire on January 1, 1993. Responsibility for that portion of the program reverts to EPA on that date if a State has not received final authorization for those provisions.

On July 7, 1988, Idaho submitted an official application for final authorization for those non-HSWA and HSWA requirements promulgated as of July 7, 1987. On November 17, 1989, the State requested interim authorization for the HSWA corrective action provisions of section 3004(u), promulgated as of July 7, 1987. The State has incorporated by reference all Federal Regulations in 40 CFR parts 124, 260–266, 268, and 270 that were promulgated and codified as of July 1, 1987. (No changes were made to the Federal RCRA program between July 1, 1987 and July 8, 1987.)

The State's application included aspects of the Land Disposal restrictions Rule (LDR) "California List", (52 FR 25760), promulgated on July 8, 1987. However, at this time these rules are not included in our final authorization decision. These rules will be addressed in a forthcoming program revision action which will give the public an opportunity to review and comment.

During EPA's review of Idaho's application a question arose concerning the scope of Idaho's regulatory exclusion for farmers. EPA excludes from all hazardous waste regulation "farmers" who dispose of waste pesticides from their own use, provided that the disposal meets specified standards. See 40 CFR 264.1(g)(4). Idaho's exclusion specifies that both

"farmers" and "ranchers" are exempt. EPA solicited public comment on this issue and received no comment. Thus, EPA has determined to interpret "farmers", as used in EPA's RCRA regulatory exclusion, to include both "farmers" and "ranchers" and to approve this aspect of Idaho's application.

Further background on the tentative decision to grant final and interim authorization appears at 54 FR 52800, dated December 22, 1989. Along with the tentative decision, EPA announced the availability of the application and other materials for public comment and scheduled a public hearing. EPA cancelled the scheduled public hearing because there was no significant interest in such hearing expressed. The public comment period ended January 26, 1990.

Six public comment letters were received, three of which expressed concerns about aspects of the State's program and the other three expressed clear support for authorization. Many of the concerns and questions raised relate to issues not within the scope of decision criteria for authorization. The following are EPA's responses to commentor's concerns regarding various aspects of the State's program.

1. *Comment:* Timing of authorization relative to impact of the Bevill mining exclusion rules (54 FR 36592, dated September 1, 1989, effective March 1, 1990 and 55 FR 2322, dated January 23, 1990, effective July 23, 1990) upon Idaho's mining community.

Response: The Bevill mining exclusion rules cited above are non-HSWA provisions. Once a State receives authorization, all non-HSWA provisions that the State does not have authorization for will no longer be implemented by either EPA or the State. Only requirements imposed pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) will remain in effect and be implemented by EPA, until the State seeks and is granted authorization for those provisions (see 40 CFR 271.21).

Therefore, the September 1, 1989 Bevill rule effective March 1, 1990, will be in effect and implemented by EPA until the effective date of Idaho's authorization. After Idaho's authorization these Bevill provisions and any other non-HSWA provisions promulgated after July 7, 1987, will no longer be implemented nor applicable in the State until the State adopts comparable regulations. Thus, during the period of time between Idaho's authorization and when the State adopts the Bevill rules the regulated community will not be subject to the Bevill rules. Any applicable State requirements in effect prior to authorization and/or adopted after authorization will remain in effect.

Once Idaho receives authorization the State will be required to revise their program to adopt equivalent standards regulating as hazardous waste non-Bevill mineral processing wastes that exhibit hazardous characteristics by July 1, 1991, if only regulatory changes are necessary, or by July 1, 1992, if statutory changes are necessary. See 40 CFR 271.21(e).

2. *Comment:* Concern was expressed that Idaho's authorized program encompasses Federal rules as of July 1987, resulting in a regulatory gap between EPA's current Federal program and the State's authorized program. The commentor encouraged the State to keep its program updated in a more timely manner.

Response: EPA acknowledges that an inevitable regulatory gap results during the authorization process. The RCRA statute and implementing regulations (see 40 CFR 271.3(f)) specifically provide for this. States are not required to include in their applications federal requirements in effect less than 12 months before submittal of their application. Idaho submitted their application on July 7, 1988 which encompassed and incorporated by reference all federal provisions through July 7, 1987.

However, the annual cluster rule (see 40 CFR 271.21) sets forth regulatory deadlines for a state to revise their program in order to retain authorization. This provision ensures that future program modifications and revisions will occur in a timely manner.

In order to retain authorization a state must revise their program to adopt new federal requirements by the cluster deadlines and procedures as specified in 40 CFR 271.21. (See 51 FR 33712, September 22, 1986 for a complete discussion of all these procedures and deadlines.) It has been agreed that the State will initiate a regulatory update immediately after authorization and the state will submit a new application expeditiously. EPA also expects the state will meet program revision deadlines in the future.

3. *Comment:* A commentor requested clarification of exactly which federal regulations from RCRA and HSWA Idaho will be authorized to implement.

Response: EPA acknowledges that the various references to July 1, 1987 and July 7, 1987 are confusing. The July 7, 1987 date is relevant as authorization requires a state to have its program encompass all federal requirements in effect 12 months prior to the State's submission of its official application. (See 40 CFR 271.3(f)). The July 1, 1987 date relates to the last federal rule codified in the CFR for which Idaho will receive authorization, as cited and published June 10, 1988, in title 1 chapter 5, Rules, Regulations and Standards for Hazardous Waste, section 16.01.5002, "Incorporation by Reference". Thus, for ease of reference, EPA cited Idaho as receiving authorization for the federal program codified as of July 1, 1987.

EPA will also codify in 40 CFR part 272 subpart N, Idaho's authorized statutes and regulations which are part of their approved program. This identification of Idaho's statutes and regulations should substantially enhance the public's ability to discern the current status of the authorized state program and clarify the extent of federal enforcement authority.

4. *Comment:* Concerns were expressed about Idaho's ability to implement an effective program with respect to funding, recruiting and retaining a technically qualified workforce. These concerns were specifically expressed with respect to the Department of Energy (DOE) INEL facility; a concern was also expressed about the state's commitment to implement an aggressive enforcement program at INEL.

Response: EPA recognizes the challenges facing Idaho being a relatively small state with a limited resource base, with an exceptionally large, complex DOE facility among its regulated community. The major U.S. DOE facilities present enormous resource challenges to any State or EPA region in which they are located. EPA evaluated the state's capability to implement the RCRA program and has determined the State has adequate resources and capability to warrant authorization.

A commentor objected to the concept of U.S. DOE providing agencies with funds for regulatory oversight and argued that direct congressional funding for oversight is more appropriate. The issue of funding source has been determined to be not relevant to the authorization decision.

In a related comment, a commentor suggested that the state program include an element for periodic (e.g., semi-annual) comment by the regulated community on the adequacy of state program implementation. The commentor noted such comments should be reviewed by EPA if program withdrawal proceedings were initiated, in accordance with RCRA Section 3006(e).

EPA has evaluated the state's capability and has determined that the

state has adequate resources and capability to warrant authorization.

At any time, any member of the public, including the regulated community, may raise such concerns to EPA. In accordance with provisions in the State/EPA Memorandum of Agreement (MOA), EPA will consider such comments as part of its on-going assessment of the State's program. Other scheduled opportunities for public review of the state's program include the opportunity for comment on the annual State/EPA Agreement (which specifies annual priorities and activities for federal grant funding) and opportunity for comment on subsequent state authorized program revisions. Due to interim authorization for the HSWA corrective action provisions there will be another EPA authorization action to determine if Idaho will receive final authorization, therefore giving the public another opportunity to comment on Idaho's hazardous waste program. Finally, any such comments that are related to an EPA program evaluation in the context of withdrawal proceedings would be considered by EPA.

Thus, EPA concludes there are sufficient opportunities for the regulated community to bring concerns to EPA's attention without specifically creating a formal, periodic process envisioned by the commentor.

5. *Comment:* A commentor requested specific MOA provisions addressing State protection of "classified" information, as such information relates to national security considerations.

The issue of protection of "classified" national security information/documents will be addressed within the context of the State/EPA intergovernmental agreement with INEL (IAG), under Section 120(j)(1),(2) of CERCLA.

6. *Comment:* One commentor raised questions about the consistency and stringency of the Idaho program. This commentor noted the state has a comprehensive site licensing statute which is broader in scope than RCRA permitting requirements. Concern was expressed that this aspect of the state's program is not consistent with EPA's. In addition, because the state Hazardous Waste Management Act prohibits the state from adopting provisions more stringent than RCRA, the commentor expressed concern that the state's regulations might be rendered more stringent if EPA changes its regulations to be less stringent.

Response: EPA has reviewed the siting requirements and does not believe they render the state program inconsistent with the RCRA program pursuant to 40 CFR 271.4. EPA is placing in the docket a memorandum which provides a more detailed rationale for this conclusion.

With respect to the state statutory provisions regarding adoption of more stringent regulations, the State explains in its application that the State is not precluded from implementing a requirement which is rendered more stringent because of a change in the Federal regulations.

Concern was also expressed about the effect of authorization on the National Environmental Policy Act (NEPA) regulations and whether the State has similar requirements. EPA's decision on authorization has no effect on applicability of NEPA, nor are there any authorization requirements for the State to have NEPA-like processes.

B. Decision

After reviewing the public comments I conclude that Idaho's application for final and interim authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Idaho is granted final authorization for RCRA base program and HSWA provisions promulgated as of July 1, 1987 (except for HSWA corrective action), and interim authorization of HSWA corrective action provisions section 3004(u) to operate its hazardous waste program, subject to the limitations on its authority retained by EPA in accordance with the HSWA.

Under interim authorization for corrective action, the State has responsibility to implement the requirements and its provisions operate in lieu of the Federal requirements as is the case with final authorization. The difference between interim authorization and final authorization is that interim authorization expires on January 1, 1993, and responsibility for that portion of the EPA if the State has not received final authorization by the expiration date.

The State hazardous waste program has statutes and regulations promulgated concerning routing of hazardous waste shipments that are broader in scope than the Federal program and will not be part of the Idaho authorized program. However, these rules will remain in effect as State law.

Idaho now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program. Idaho also has primary enforcement responsibility, although, EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA. Upon authorization, all previous EPA RCRA permits issued before the State was authorized will be administered by the State.

The State of Idaho is not being authorized to operate the RCRA program over any Indian lands; this authority will remain with EPA.

As stated above, Idaho's authority to operate a hazardous waste program under subtitle C of RCRA is limited by HSWA. Prior to HSWA, a State with final authorization administered its hazardous waste program entirely in lieu of the EPA. The Federal requirements no longer apply in the authorizaed State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, pursuant to 42 U.S.C. 6926(g), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, HSWA applies in authorized States in the interim.

As a result of HSWA, there will be a dual State/Federal regulatory program in Idaho. While this authorization does cover certain HSWA provisions it does not cover those promulgated after July 7, 1987, e.g. HSWA Land Disposal Restrictions—First Third "California List", Second Third, or Third Third. To the extent the authorized State program is unaffected by HSWA, the State program will operate in lieu of the Federal program. Where yet to be authorized HSWA requirements apply, EPA will administer and enforce these requirements in Idaho until the State receives authorization to do so. Among other things, this may entail the issuance of Federal RCRA permits concerning HSWA provisions for which the State is not yet authorized. Once the State is authorized to implement a HSWA requirement or prohibition, the State

program in that area will operate in lieu of the Federal program. Until that time, the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

Any State requirement that is more stringent than a HSWA provision remains in effect; thus, the universe of the more stringent provisions in the HSWA and the approved State program define the applicable subtitle C requirements in Idaho.

EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702–28755, July 15, 1985.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Idaho's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects In 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 8, 1990.

Thomas P. Dunne,

Acting Regional Administrator.

[FR Doc. 90–6778 Filed 3–23–90; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. A–34, Supp. 2]

Limiting Travel Advances to Manage Cash More Effectively

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: FPMR Temp. Reg. A–34 implemented Office of Management and Budget (OMB) Bulletin 88–17, July 22, 1988, "Limiting Travel Advances to Manage Cash More Effectively." Because the provisions of this regulation have been permanently codified in the Federal Travel Regulation (FTR) at 41 CFR part 301–10, this regulation and supplement 1 (55 FR 3740, February 5, 1990) thereto are removed from the Appendix at the end of subchapter A to title 41 of the Code of Federal Regulations.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Larry Tucker, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, telephone FTS 557–1253 or commercial 703–557–1253.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

By the Administrator's authority (5 U.S.C. 5701–5709; EO 11609, July 22, 1971), the Appendix at the end of subchapter A in 41 CFR chapter 101 is amended by removing FPMR Temp. Reg. A–34 and FPMR Temp. Reg. A–34, Supplement 1.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 90–6668 Filed 3–23–90; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Ch. 101

[FPMR Temp. Reg. A–32, Supp. 2]

First Duty Station Allowances for Relocated Presidential Transition Team Personnel Subsequently Appointed to Government Service

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: FPMR Temporary Regulation A–32 implemented authority to pay first duty station relocation allowances to eligible members of the Presidential Transition Team who relocate prior to selection for, or appointment to, certain Federal Government positions. Because the provisions of this regulation have been made permanent and incorporated in the Federal Travel Regulation (FTR) under 41 CFR part 302–1, this regulation and supplement 1 (54 FR 47522, November 15, 1989) thereto are removed from the Appendix at the end of subchapter A to title 41, Code of Federal Regulations.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Larry Tucker, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, telephone FTS 557–1253 or commercial 703–557–1253.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

By the Administrator's authority (5 U.S.C. 5721–5734; 20 U.S.C. 905(a); and EO 11609, July 22, 1971), the Appendix at the end of subchapter A in 41 CFR chapter 101 is amended by removing FPMR Temporary Regulation A–32 and FPMR Temporary Regulation A–32, Supplement 1.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 90–6667 Filed 3–23–90; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BPD-302-F]

RIN 0938-AC05

Medicare Program; Medicare as Secondary Payer and Medicare Recovery Against Third Parties

AGENCY: Health Care Financing Administration, HHS.

ACTION: Final rule; reinstatement of regulations.

SUMMARY: This rule amends final regulations published on October 11, 1989, at 54 FR 41716 in order to replace changes that were intended to clarify policy, but have been interpreted by some readers as expressing substantive policy changes. With the exception of updated cross-references, we therefore are reissuing language that was in effect before the effective date of the October 11, 1989 final rule.

EFFECTIVE DATE: This final rule is effective March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Herbert Pollock, (301) 966-4474.

SUPPLEMENTARY INFORMATION:

I. Background and Provisions of This Final Rule

Revisions to several sections of 42 CFR part 405, subpart G—Reconsiderations and Appeals Under the Hospital Insurance Program, were published on October 11, 1989, at 54 FR 41716 as part of a final rule concerning Medicare as secondary payer and Medicare recovery against third parties. (See 54 FR 41732 through 41734.) These revisions to subpart G were made for the purposes of correcting redesignated cross-references and reorganizing some excessively long paragraphs into lists. We did not intend to make any substantive changes in rights concerning reconsiderations and appeals under part A.

However, we have subsequently learned that some of the changes concerning part A appeals could be construed as substantive changes. There was no intent to change policy, and all practices concerning reconsiderations and appeals remain unchanged. To avoid any possible misunderstanding, we are reissuing the affected sections of the part 405, subpart G regulations that were in effect before the effective date of the October 11, 1989, final rule. However, we are retaining corrections of cross-references to regulations that were designated in the October 11, 1989, final rule or in earlier final rules. We note that any unintentional substantive changes to part 405, subpart G published on October 11, 1989, would be invalid because they were not issued in compliance with the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. chapter 5).

We want to emphasize that in this final rule we are making changes only to several sections of part 405, subpart G. Sections of part 405 subpart G that were not amended in the October 11, 1989, final rule remain in effect as do all of the other provisions of the regulations that were published as part of the October 11, 1989, final rule.

II. Regulatory Impact Statement

Executive Order (E.O.) 12291 requires us to prepare and publish a regulatory impact analysis for any final rule that meets one of the E.O. criteria for a "major rule"; that is, that is likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a regulation will not have a significant economic impact on a substantial number of small entities. For the purposes of the RFA, we do not consider beneficiaries as small entities. Also, section 1102(b) of the Social Security Act requires the Secretary to prepare a regulatory impact analysis if a rule will have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must also conform to provisions of section 604 of the RFA. For purposes of section 1102(b) of the Social Security Act, we define a small rural hospital as a hospital which is located outside a metropolitan statistical area and has fewer than 50 beds.

Because this final rule is not intended to change policy, but merely to clarify policy, we have determined that a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that this final rule will not have a significant economic impact on a substantial number of small entities and will not have a significant impact on the operations of a substantial number of small rural hospitals.

III. Information Collection Requirements

This final rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

IV. Waiver of 30-Day Delay in Effective Date

We normally publish rules of this kind 30 days before the effective date. However, we may waive this procedure if we find good cause that a delayed effective date is impractical, unnecessary, or contrary to the public interest. When we do so, we incorporate our findings in the document to be issued.

The purpose of this document is to retract and replace language recently published on October 11, 1989, that had been intended only to clarify policy, but which may be subject to misinterpretation as expressing substantive policy changes. We are replacing the recently published language with the language was was in effect before the effective day of the October 11, 1989, final rule (with corrected cross references). The provisions in these regulations were all previously issued in the **Federal Register**. These reissued regulations are effective without providing a 30-day delay in the effective date because a delay would be unnecessary and contrary to the public interest because it could contribute to confusion over which rules apply. Therefore, we find good cause to waive the 30-day delay in the effective date.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

Part 405, subpart G is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart G—Reconsiderations and Appeals Under the Hospital Insurance Program

1. The authority citation continues to read as follows:

Authority: Secs. 1102, 1154, 1155, 1869(b), 1871, 1872 and 1879 of the Social Security Act (42 U.S.C. 1302, 1320c, 1395ff(b), 1395hh, 1395ii and 1395pp).

2. Section 405.701 is revised to read as follows:

§ 405.701 Basis and purpose.

(a) This subpart implements section 1869 of the Social Security Act. Section 1869(a) provides that the Secretary will make determinations about the following matters, and section 1869(b) provides for a hearing for an individual who is dissatisfied with the Secretary's determination as to:

(1) Whether the individual is entitled to hospital insurance (part A) or supplementary medical insurance (part B) under title XVIII of the Act; or

(2) The amount payable under hospital insurance.

(b) This subpart establishes the procedures governing initial determinations, reconsidered determinations, hearings, and final agency review, and the reopening of determinations and decisions that are applicable to matters arising under paragraph (a) of this section.

(c) Subparts J and R of 20 CFR part 404 (dealing with determinations, the administrative review process and representation of parties) are also applicable to matters arising under paragraph (a) of this section, except to the extent that specific provisions are contained in this subpart.

3. Section 405.702 is revised to read as follows:

§ 405.702 Notice of initial determination.

After a request for payment under part A of title XVIII of the Act is filed with the intermediary by or on behalf of the individual who received inpatient hospital services, extended care services, or home health services, and the intermediary has ascertained whether the items and services furnished are covered under part A of title XVIII, and where appropriate, ascertained and made payment of amounts due or has ascertained that no payments were due, the individual will be notified in writing of the initial determination in his case. In addition, if the items or services furnished such individual are not covered under part A of title XVIII by reason of § 411.15(g) or § 411.15(k) and payment may not be made for such items or services under § 411.400 only because the requirements of § 411.400(a)(2) are not met, the provider of services which furnished such items or services will be notified in writing of the initial determination in such individual's case. These notices shall be mailed to the individual and the provider of services at their last known addresses and shall state in detail the basis for the determination. Such written notices shall also inform the individual and the provider of services of their right to reconsideration of the determination if they are dissatisfied with the determination.

4. Section 405.704 is revised to read as follows:

§ 405.704 Actions which are initial determinations.

(a) *Applications and entitlement of individuals.* An initial determination with respect to an individual includes the following—

(1) A determination with respect to entitlement to hospital insurance or supplementary medical insurance;

(2) A disallowance of an individual's application for entitlement to hospital or supplementary medical insurance, if the individual fails to submit evidence requested by SSA to support the application. (SSA will specify in the initial determination the conditions of entitlement that the applicant failed to establish by not submitting the requested evidence);

(3) A denial of a request for withdrawal of an application for hospital or supplementary medical insurance;

(4) A denial of a request for cancellation of a "request for withdrawal"; and

(5) A determination as to whether an individual, previously determined to be entitled to hospital or supplementary medical insurance, is no longer entitled to such benefits, including a determination based on nonpayment of premiums.

(b) *Requests for payment by or on behalf of individuals.* An initial determination with respect to an individual includes any determination made on the basis of a request for payment by or on behalf of the individual under part A of Medicare, including a determination with respect to:

(1) The coverage of items and services furnished;

(2) The amount of an applicable deductible;

(3) The application of the coinsurance feature;

(4) The number of days of inpatient hospital benefits utilized during a spell of illness or for purposes of the inpatient psychiatric hopsital 190-day lifetime maximum;

(5) The number of days of the 60-day lifetime reserve utilized for inpatient hospital coverage;

(6) The number of days of posthospital extended care benefits utilized;

(7) The number of home health visits utilized;

(8) The physician certification requirement;

(9) The request for payment requirement;

(10) The beginning and ending of a spell of illness, including a determination made under the presumptions established under § 409.60(c)(2) of this chapter, as specified in § 409.60(c)(4) of this chapter.

(11) The medical necessity of services (See parts 466 and 473 of this chapter for provisions pertaining to initial and reconsidered determinations made by a PRO);

(12) When services are excluded from coverage as custodial care (§ 411.15(g)) or as not reasonable and necessary (§ 411.15(k)), whether the individual or the provider of services who furnished the services, or both, knew or could reasonably have been expected to know that the services were excluded from coverage (see § 411.402);

(13) Any other issues having a present or potential effect on the amount of benefits to be paid under part A of Medicare, including a determination as to whether there has been an overpayment or underpayment of benefits paid under part A, and if so, the amount thereof; and

(14) Whether a waiver of adjustment or recovery under sections 1870 (b) and (c) of the Act is appropriate when an overpayment of hospital insurance benefits or supplementary medical insurance benefits (including a payment under section 1814(e) of the Act) has been made with respect to an individual.

(c) *Initial determination with respect to a provider of services.* An initial determination with respect to a provider of services shall be a determination made on the basis of a request for payment filed by the provider under part A of Medicare on behalf of an individual who was furnished items or services by the provider, but only if the determination involves the following:

(1) A finding by the intermediary that such items or services are not covered by reason of § 411.15(g) or § 411.15(k); and

(2) A finding by the intermediary that either such individual or such provider

of services, or both, knew or could reasonably have been expected to know that such items or services were excluded from coverage under the program.

5. Section 405.708 is revised to read as follows:

§405.708 Effect of initial determination.

(a) The initial determination under § 405.704 (a) or (b) shall be final and binding upon the individual on whose behalf payment under part A has been requested or, if such individual is deceased, upon the representative of such individual's estate, unless it is reconsidered in accordance with §§ 405.710 through 405.717 or revised in accordance with § 405.750. Such individual (or the representative of such individual's estate if the individual is deceased) shall be the party to such initial determination.

(b) The initial determination under § 405.704(c) shall be final and binding upon the provider of services unless it is reconsidered in accordance with §§ 405.710 through 405.717 or revised in accordance with § 405.750. Such provider of services shall be the party to such initial determination.

6. Section 405.710 is revised to read as follows:

§ 405.710 Right to reconsideration.

(a) An individual who is a party to an initial determination, as specified in § 405.704 (a) and (b), (or if such individual is deceased, the representative of such individual's estate) and who is dissatisfied with the initial determination may request a reconsideration of such determination in accordance with § 405.711 regardless of the amount in controversy.

(b) A provider of services who is a party to an initial determination (as specified in § 405.704(c)) and who is dissatisfied with such initial determination may request a reconsideration of such determination in accordance with § 405.711, regardless of the amount in controversy, but only if the individual on whose behalf the request for payment was made has indicated in writing that he does not intend to request reconsideration of the intermediary's initial determination on such request for payment, or if the intermediary has made a finding (see § 405.704(c)) that such individual did not know or could not reasonably have been expected to know that the expenses incurred for the items or services for which such request for payment was made were not reimbursable by reason of § 411.15(g) or § 411.15(k).

7. Section 405.715 is republished as follows:

§ 405.715 Reconsidered determination.

(a) In reconsidering an initial determination, the Health Care Financing Administration shall review such initial determination, the evidence and findings upon which such determination was based, and any additional evidence submitted to the Social Security Administration or the Health Care Financing Administration or otherwise obtained by the intermediary or the Health Care Financing Administration; and shall make a determination affirming or revising, in whole or in part, such initial determination.

(b) If the request for reconsideration is filed by an individual with respect to an initial determination specified in § 405.704(b)(12), the provider of services who furnished the items or services shall, prior to the making of the reconsidered determination, be made a party thereto. If pursuant to § 405.710(b) a request for reconsideration is filed by a provider of services with respect to an individual determination under § 405.704(c), the individual who was furnished the items or services shall, prior to the making of the reconsidered determination, be made a party thereto.

7. In § 405.740, paragraphs (e), (f), and (h) are revised to read as follows:

§ 405.740 Principles for determining the amount in controversy.

* * * * *

(e) Any series of posthospital home health visits shall be considered collectively in determing the amount in controversy.

(f) Appeals from determinations pertaining to inpatient hospital services, extended care services or posthospital home health services shall not ordinarily be additive for purposes of determining the amount in controversy except, where:

(1) The denial of payment of inpatient hospital services prevents the individual from meeting a condition precedent for payment for extended care or home health services; or

(2) The same factor is at issue in more than one claim for benefits by such individual (e.g., an individual, during June, is hospitalized twice; in each case the claim for payment is denied on the basis that the hospitalization occurred during an ongoing spell of illness which began prior to June and in which the individual had already utilized all available benefit days; the individual appeals claiming that he was in a new spell of illness and had the full number of benefit days available).

* * * * *

(h) Notwithstanding the provisions of paragraph (a) of this section, when payment is made for certain non-reimbursable expenses pursuant to § 411.400, or the liability of the individual is limited for certain noncovered items or services pursuant to § 411.402, the amount in controversy should be computed as the amount that would have been charged the individual for the items and services in question, less deductible and coinsurance amounts applicable in the particular case, had such expenses not been paid pursuant to § 411.400 or had such liability not been limited pursuant to § 411.402.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: December 22, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

Approved: February 22, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-6785 Filed 3-26-90; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 81130-8265]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of fishing restrictions.

SUMMARY: NOAA issues this notice limiting the amount of sablefish smaller than 22 inches that may be taken with nontrawl gear off the coasts of Washington, Oregon, and California. This action is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and is necessary to avoid biological stress on the sablefish resource.

DATES: Effective 0001 hours (Pacific Daylight Time) March 21, 1990, until modified, superseded, or rescinded. Comments will be accepted through April 10, 1990.

ADDRESSES: Submit comments on these actions to Rolland A. Schmitten, Director, Northwest Region, National

Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, Rodney R. McInnis at 213–514–6199, or the Pacific Fishery Management Council at 503–221–6352.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) and implementing regulations at 50 CFR 663.22(a) authorize the Secretary of Commerce (Secretary) to reduce fishing levels to prevent or reduce biological stress in any species or species complex. A trip limit reducing the catch of sablefish smaller than 22 inches has been imposed on the sablefish fishery at the beginning of each year since 1983 (48 FR 8283, February 28, 1983). The purpose of the limit is to minimize the harvest of immature sablefish and thereby protect the future brood stock. Excessive harvest of immature sablefish could lower the reproductive potential of the stock by removing fish that have not yet spawned, eventually reducing the stock biomass. On a longterm basis, if the sablefish quota were taken predominantly from immature sablefish, the maximum sustainable yield and annual estimate of acceptable biological catch (ABC) would be reduced below current levels. A trip limit for sablefish under 22 inches currently exists only in the trawl fishery.

The original 1989 nontrawl trip limit for sablefish under 22 inches (1,500 pounds or three percent of all sablefish on board, whichever is greater) was replaced by an incidental trip limit designed to eliminate large-scale target fishing while enabling unavoidable catches to be landed without exceeding the nontrawl sablefish quota. This incidental trip limit (initially 100 pounds, and later increased to 2,000 pounds or 20 percent of all fish on board, whichever was less, in landings over 100 pounds) applied to sablefish of any size, and was carried over from 1989 into the beginning of 1990.

On January 31, 1990, NOAA rescinded the incidental nontrawl trip limit for reasons unrelated to this action (55 FR 3747, February 5, 1990). The rescission enabled the nontrawl target fishery to resume, but without a size limit on sablefish smaller than 22 inches. At its next opportunity, its March 1990 meeting in Seattle, Washington, the Pacific Fishery Management Council (Council) recommended that the 1989 nontrawl trip limit on sablefish smaller than 22 inches be reinstated during the 1990 target fishery in order to avoid biological stress.

Secretarial Action: The Secretary concurs with the Council's recommendation and herein modifies the current nontrawl management measures for sablefish as follows:

(b) *Nontrawl gear.* No more than 1,500 pounds or three percent of all sablefish on board, whichever is greater, of sablefish smaller than 22 inches (total length) caught with nontrawl gear may be taken and retained, possessed, or landed per vessel per fishing trip.

As in the past, all weights and percentages are based on round weight or round weight equivalents. Only the provisions announced in paragraph 4(b) at 55 FR 3748 (February 5, 1990) are changed. All other provisions for sablefish announced in that notice remain in effect.

Classification

The determination to impose these fishing restrictions is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until the end of the comment period.

An Environmental Impact Statement (EIS) was prepared for the FMP in 1982 in accordance with the National Environmental Policy Act (NEPA). The alternative and environmental impacts of this Notice of Fishing Restrictions are not significantly different than those considered in the EIS for the FMP. Therefore, this action is categorically excluded from the NEPA requirements to prepare an Environmental Assessment in accordance with paragraph 5a(3) of the NOAA Directives Manual 02–10 because the alternatives and their impacts have not changed significantly.

This action is taken under the authority of 50 CFR 663.22 and 663.23, and is in compliance with Executive Order 12291.

Section 663.23 states that any notice issued under this section will not be effective until 30 days after publication in the **Federal Register**, unless the Secretary finds and publishes with the notice good cause for an earlier effective date. If unrestricted, excessive catches of immature sablefish could jeopardize the reproductive potential of the stock. Prompt action is necessary to avoid biological stress and to restore the fishing regime endorsed by the Council since 1983 for the nontrawl target fishery on sablefish. A delay in implementation of this action would result in quicker achievement of the nontrawl quota for sablefish, and thus premature closure of the nontrawl target fishery in 1990. This could result in filling the quota with a higher proportion of smaller, less valuable sablefish, reducing economic yield and possibly reducing longterm biological yields. Consequently, further delay of these actions is impracticable and contrary to the public interest, and for good cause this action is taken in final form effective March 21, 1990.

The public has had opportunity to comment on this management measure. The public participated in the Groundfish Select Group, GMT, Groundfish Advisory Subpanel, and Council meetings in March 1990 that generated the management actions endorsed by the Council and the Secretary. Additional public comments will be received through April 10, 1990.

List of Subjects in 50 CFR Part 663

Administrative practice and procedures, Fisheries, Fishing.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 20, 1990.

Richard H. Schaefer,

Director, Office of Fisheries, Conservation and Management.

[FR Doc. 90–6740 Filed 3–21–90; 11:26 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 55, No. 58
Monday, March 26, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[TB-90-002]

Tobacco Inspection; Grower Referendums

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Tobacco Inspection Act authorizes the Secretary of Agriculture to designate markets where tobacco sold at auction must be federally inspected prior to sale. This proposal would revise § 29.74(a), which sets forth the procedures for grower referendums on such designations, to provide for cases where no tobacco growers sold tobacco at auction on the market during the proceeding marketing season. Growers residing in the county where the proposed market is located and in the adjacent counties would be eligible to vote in a referendum on the proposed designation of a new market.

DATES: Comments are due on or before April 10, 1990.

ADDRESSES: Send comments or requests for information to the Director, Tobacco Division, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), P.O. Box 96456, room 502 Annex, Washington, DC 20090-6456.

Comments will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Larry L. Crabtree, Chief, Market Information and Program Analysis Branch, Tobacco Division, AMS, USDA, P.O. Box 96456, room 506 Annex, Washington, DC 20090-6456, telephone (202) 447-3489.

SUPPLEMENTARY INFORMATION: The Tobacco Inspection Act authorizes the Secretary of Agriculture to designate markets where tobacco sold at auction must be federally inspected prior to sale. Price support services and regular inspection services are available only at designated markets.

The criteria for the designation of new markets are found at 7 CFR part 29, subpart A. The procedures for a grower referendum on the proposed designation of a market are found at 7 CFR part 29.74. The existing regulations on the eligibility of growers to vote in a referendum are directed to instances where the designation of an existing auction market is proposed. Growers are eligible to vote if they sold tobacco at auction on the market during the preceding marketing season. It is necessary to revise the referendum procedures because they do not provide for cases where the designation of an entirely new market is proposed and no tobacco growers sold tobacco at auction on the market during the preceding marketing season.

The agency believes that in such cases growers residing in the county where the proposed market is located and the adjacent counties should be eligible to vote in a referendum on the proposed designation. A review of data on sales patterns at existing designated tobacco markets shows that, in most cases, most of the tobacco offered for sale at a market originated in the county where the market is located or in adjacent counties. Thus, the proposed method for determining eligibility to vote would include most interested growers and would not exclude many. It is also practical because the Department maintains lists of tobacco growers by county.

This proposed rule has been reviewed under Departmental procedures established to implement Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule because it does not meet any of the criteria established for major rules under the executive order.

Additionally, in conformance with the provisions of Public Law 96-354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Most of the firms which would be affected by this rule are small businesses. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. This proposed rule would not substantially affect the normal movement of the commodity in the marketplace. Compliance with this proposed rule would not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and would not alter the market share of competitive positions of small entities relative to the large entities and would in no way affect normal competition in the marketplace.

Farmers in the flue-cured area are required to designate the warehouse or warehouses where they will sell their tobacco. The initial designation period for the 1990 crop is now in progress and will close April 15. Two new markets have recently been designated by the Secretary pending final approval through referendum. Since this proposed rule directly affects the conduct of referendums for these markets it has been determined that good cause exists for reducing the comment period to 15 days in order that a referendum may be held as quickly as possible.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, it is proposed that the regulations of 7 CFR part 29 be amended as follows:

PART 29—[AMENDED]

1. The authority citation for 7 CFR part 29, subpart B continues to read as follows:

Authority: 7 U.S.C. 511m and 511r.

2. Section 29.74(a) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 29.74 Growers' referendum.

(a) * * * If no growers sold tobacco at auction on a proposed new market during the proceeding marketing season, then the list of growers entitled to vote

in the referendum shall be comprised of the growers residing in the county where the proposed new market is located and in the adjacent counties.

* * * * *

Dated: March 21, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-6782 Filed 3-23-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1150

[DA-89-026]

Dairy Promotion Program; Invitation to Submit Comments on Proposed Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes amendments to the Dairy Promotion and Research Order and provides for written comments on the proposal. The proposal would establish procedures for denying, suspending or terminating Department certification of qualification of State or regional dairy product promotion, research or nutrition education programs under the National Dairy Promotion Program, including the opportunity to petition the Secretary for a review of an action.

The Dairy Promotion Program is funded by a mandatory assessment of 15 cents per hundredweight on all milk marketed commercially in the 48 contiguous states. Producers can receive a credit of up to 10 cents a hundredweight for payments made to a qualified program. The criteria that must be met by a State or regional program to be certified as a qualified program are specified in the order and would not be modified by the proposal.

DATES: Comments must be postmarked on or before April 25, 1990.

ADDRESSES: Comments should be sent to: Director, USDA/AMS/Dairy Division, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Marcia Gibney, Chief, Promotion and Research Staff, USDA/AMS/Dairy Division, room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-6961.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. The proposed changes concern procedural matters with regard to the certification of qualification of State or regional dairy product promotion, research or nutrition education programs and would not result in a significant economic effect on any entity engaged in the dairy industry. Also, this proposed rule has been reviewed under Executive Order 12291 and Department Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements contained in part 1150, including § 1150.153, have been approved previously by the Office of Management and Budget (OMB) under OMB Control No. 0581-0147.

Statement of Consideration

The Dairy Promotion Program is funded by a mandatory assessment of 15 cents per hundredweight on all milk marketed commercially in the 48 contiguous states. Producers can receive a credit of up to 10 cents a hundredweight for payments made to State or regional dairy product promotion, research or nutrition education programs that are certified by the Secretary as qualified programs. The order currently specifies the criteria that must be met by State or regional programs to be so certified.

The proposed amendments to the order provide for denial, suspension or termination of qualification of State or regional programs which do not meet statutory or order requirements at the time of application for certification as qualified programs, or which fail to satisfy such requirements after qualification. In addition, the proposal would establish a procedure for review of any proposed denial, suspension or termination of a program's qualified status. Basically, the proposal provides that any State or regional program may petition the Secretary for a review of the proposed adverse action. The review process would provide for an informal hearing to gather evidence relevant to the issue, the preparation of preliminary findings and opportunity for exceptions, and the preparation of a final decision that sets forth the action to be taken and the basis for such action.

List of Subjects in 7 CFR Part 1150

Dairy products, Milk, Promotion, Research.

For the reasons set forth in the statement of consideration, 7 CFR part 1150 is proposed to be amended as follows:

PART 1150—DAIRY PROMOTION PROGRAM

1. The authority citation for 7 CFR part 1150 continues to read as follows:

Authority: Pub. L. 98-180, 97 Stat. 1128.

2. Section 1150.153 is amended by the addition of a new paragraph (c) that reads as follows:

§ 1150.153 Qualified State or regional dairy product promotion, research or nutrition education programs.

* * * * *

(c) An application for certification of qualification of any State or regional dairy product promotion, research or nutrition education program which does not satisfy the requirements specified in paragraph (b) of this section shall be denied. The certification of any qualified program which fails to satisfy the requirements specified in paragraph (b) of this section after certification shall be subject to suspension or termination.

(1) Prior to the denial of an application for certification of qualification, or the suspension or termination of an existing certification, the Director of the Dairy Division shall afford the applicant or the holder of an existing certification an opportunity to achieve compliance with the requirements for certification within a reasonable time, as determined by the Director.

(2) Any State or regional dairy product promotion, research or nutrition education program whose application for certification of qualification is to be denied, or whose certification of qualification is to be suspended or terminated, shall be given written notice of such pending action and shall be afforded an opportunity to petition the Secretary for a review of the action. The petition shall be in writing and shall state the facts relevant to the matter for which the review is sought, and whether petitioner desires an informal hearing. If an informal hearing is not requested, the Director of the Dairy Division shall issue a final decision setting forth the action to be taken and the basis for such action. If petitioner requests a hearing, the Director of the Dairy Division, or a person designated by the Director, shall hold an informal hearing in the following manner:

(i) Notice of a hearing shall be given in writing and shall be mailed to the last known address of the petitioner or of the State or regional program, or to an officer thereof, at least 20 days before the date set for the hearing. Such notice

shall contain the time and place of the hearing and may contain a statement of the reason for calling the hearing and the nature of the questions upon which evidence is desired or upon which argument may be presented. The hearing place shall be as convenient to the State or regional program as can reasonably be arranged.

(ii) Hearings are not to be public and are to be attended only by representatives of the petitioner or the State or regional program and of the U.S. Government, and such other parties as either the State or regional program or the U.S. Government desires to have appear for purposes of submitting information or as counsel.

(iii) The Director of the Dairy Division, or a person designated by the Director, shall be the presiding officer at the hearing. The hearing shall be conducted in such manner as will be most conducive to the proper disposition of the matter. Written statements or briefs may be filed by the petitioner or the State or regional program, or other participating parties, within the time specified by the presiding officer.

(iv) The presiding officer shall prepare preliminary findings setting forth a recommendation as to what action should be taken and the basis for such action. A copy of such findings shall be served upon the petitioner or the State or regional program by mail or in person. Written exceptions to the findings may be filed within 10 days after service thereof.

(v) After due consideration of all the facts and the exceptions, if any, the Director of the Dairy Division shall issue a final decision setting forth the action to be taken and the basis for such action.

Signed at Washington, DC, on March 21, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-6780 Filed 3-23-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1230

[No. LS-90-103]

Pork Promotion and Research

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Pork Promotion, Research, and Consumer Information Act of 1985 and the Order issued thereunder, this proposed rule would increase the amount of the assessment per pound due on imported pork and pork products to reflect an increase in the 1989 seven market average price for domestic barrows and gilts and to bring the equivalent market value of the live animals from which such imported pork and pork products were derived in line with the market values of domestic porcine animals.

DATES: Comments must be received by April 25, 1990.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA, Room 2610-S; P.O. Box 96456, Washington, DC 20090-6456. Comments will be available for public inspection during regular business hours at the above office in room 2610 South Building, 14th and Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, (202) 447-2650.

SUPPLEMENTARY INFORMATION: This action was reviewed under USDA procedures established to implement Executive Order No. 12291 and Departmental Regulation 1512-1 and is hereby classified as a nonmajor rule under the criteria contained therein.

This action also was reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.). The effect of the Order upon small entities was discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898), and it was determined that the Order would not have a significant effect upon a substantial number of small entities. Many importers may be classified as small entities. This proposed rule would increase the amount of assessments on certain imported pork and pork products subject to assessment by one-hundredth of a cent per pound, or as expressed in cents per kilogram, two-hundredths of a cent per kilogram. Adjusting the rate of assessments on imported pork and pork products will result in an estimated increase in assessments of $62,000 over a 12-month period. Accordingly, the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities.

The Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801-4819) approved December 23, 1985, authorized the establishment of a national pork promotion, research, and consumer information program. The program is funded by an assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and an equivalent amount of assessment on imported porcine animals, pork, and pork products. The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected, at 51 FR 36383 and amended at 53 FR 1909 and 53 FR 30243) and assessments began on November 1, 1986.

The Order requires importers of porcine animals to pay the U.S. Customs Service (USCS), upon importation, the assessment of 0.25 percent of the animal's declared value and importers of pork and pork products to pay to the USCS, upon importation, the assessment of 0.25 percent of the market value of the live porcine animals from which such pork and pork products were produced. This proposed rule would increase the assessment on all but six of the imported pork and pork products subject to assessment as published in the **Federal Register** on September 21, 1989, and effective on October 23, 1989 (54 FR 38813). This increase is consistent with the increase in the annual average price of domestic barrows and gilts at the seven markets for calendar year 1989 as reported by the USDA, AMS, Livestock and Grain Market News Branch (LGMN). This increase in assessments will make the equivalent market value of the live porcine animal from which the imported pork and pork products were derived reflect the recent increase in the market value of domestic porcine animals, thereby promoting comparability between importer and domestic assessments. This proposed rule would not change the current assessment rate of 0.25 percent of the market value.

The methodology for determining the per-pound amounts for imported pork and pork products was described in the supplementary information accompanying the Order and published in the September 5, 1986, **Federal Register** at 51 FR 31901. The weight of imported pork and pork products is converted to a carcass weight equivalent by utilizing conversion factors which are published in the USDA Statistical Bulletin No. 616 "Conversion Factors and Weights and Measures." These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the nonpork components of pork products. Secondly, the carcass weight equivalent is converted to a live animal equivalent weight by dividing the carcass weight equivalent by 70 percent, which is the average dressing percentage of porcine

animals in the United States. Thirdly, the equivalent value of the live porcine animal is determined by multiplying the live animal equivalent weight by an annual average seven market price for barrows and gilts as reported by the USDA, AMS, LGMN Branch. This average price is published on a yearly basis during the month of January in the LGMN Branch's publication "Livestock, Meat, and Wool Weekly Summary and Statistics." Finally, the equivalent value is multiplied by the applicable assessment rate of 0.25 percent due on imported pork and pork products. The end result is expressed in an amount per pound for each type of pork or pork product. To determine the amount per kilogram for pork and pork products subject to assessment under the Act and Order, the cent-per-pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

The formula in the preamble for the Order at 51 FR 31901 contemplated that it would be necessary to recalculate the equivalent live animal value of imported pork and pork products to reflect changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic porcine animals and imported pork and pork products.

In 1989, the average annual seven market price increased to $43.77, an increase of about 1 percent of the 1988 per hundred weight price of $43.25 which results in an increase in assessments for all but six of the Harmonized Tariff Systems (HTS) numbers listed in the table in § 1230.110, 54 FR 15915; April 20, 1989, as amended at 34 FR 38814; September 21, 1989, of an amount equal to one-hundredth of a cent per pound, or as expressed in cents per kilograms, two-hundredths of a cent per kilogram. The HTS numbers listed in the table in § 1230.110 on which the per pound or kilogram assessments will not be increased are 0203.19.20000, 0203.29.20008, 0210.19.00005, 1601.00.20007, 1602.49.20009, and 1602.49.40005. Based on Department of Commerce, Bureau of Census, data on the volume of imported pork and pork products available for the period January 1, 1989, through October 31, 1989, the proposed increases in the assessment amounts would result in an estimated $62,000 increase in assessments over a 12-month period.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1230 be amended as set forth below:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

2. Amend subpart B—Rules and Regulations by revising § 1230.110 to read as follows:

§ 1230.110 Assessments on imported live porcine animals, pork, and pork products.

The following HTS categories of imported live porcine animals are subject to assessment at the rate specified.

Live porcine animals	Assessment
0103.10.00004	0.25 percent Customs Entered Value.
0103.91.00006	0.25 percent Customs Entered Value.
0103.92.00005	0.25 percent Customs Entered Value.

The following HTS categories of imported pork and pork products are subject to assessment at the rates specified.

Pork and pork products	Assessment	
	Cents/lb	Cents/kg
0203.11.00002	.16	.352736
0203.12.10009	.16	.352736
0203.12.90002	.16	.352736
0203.19.20000	.18	.396828
0203.19.40006	.16	.352736
0203.21.00000	.16	.352736
0203.22.10007	.16	.352736
0203.22.90000	.16	.352736
0203.29.20008	.18	.396828
0203.29.40004	.16	.352736
0206.30.00006	.16	.352736
0206.41.00003	.16	.352736
0206.49.00005	.16	.352736
0210.11.00003	.16	.352736
0210.12.00208	.16	.352736
0210.12.00404	.16	.352736
0210.19.00005	.18	.396826
1601.00.20007	.22	.485012
1602.41.20203	24	.529104
1602.41.20409	24	.529104
1602.41.90002	15	.352736
1602.42.20202	24	.529104
1602.42.20408	24	.509104
1602.42.40002	16	.352736
1602.49.20009	22	.485012
1602.49.40005	18	.396828

Done at Washington, DC, on March 21, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90–6781 Filed 3–23–90; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–NM–31–AD]

Airworthiness Directives; Airbus Industrie Model A310 and A300–600 Series Airplanes, Equipped with Litton LTN 90 or LTN 90–100 Inertial Reference Units

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A310 and A300–600 series airplanes, which would require modification of the wiring in Zone 121 and installation of three modified inertial reference units (IRU) to protect against a change of calibration. This proposal is prompted by reports that the potential exists for losing all flight data provided by the IRU's due to disruption of the calibration of all three IRU's. This condition, if not corrected, could result in loss of accurate airplane attitude and heading information that is necessary for safe operation of the airplane.

DATES: Comments must be received no later than May 15, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–31–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 431–1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as

they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-31-AD." The post card will be date/time stamped and returned to the commenter.

Discussion: The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A310 and A300-600 series airplanes. Recent reports have revealed that the potential exists for losing all flight data provided by the inertial reference units (IRU) due to disruption of the calibration of all three IRU's. This condition, if not corrected, could result in the loss of accurate airplane attitude and heading information which is necessary for safe operation of the airplane.

Airbus Industrie has issued Service Bulletins A310-34-2052, Revision 1, and A300-34-6029, Revision 1, both dated December 7, 1989, which describe procedures for modification of the wiring and installation of three modified IRU's to avoid disruption of the calibration of the IRU's. These service bulletins reference Litton Service Bulletins No. 34-90-102 and 34-90-98. The DGAC has classified these service bulletins as mandatory, and has issued Airworthiness Directive 89-170-IMP[AB]RI addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require modification of the wiring and installation of modified IRU's in accordance with the service bulletins previously described.

It is estimated that 10 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required parts would be provided at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,400.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A310 and A300-600 series airplanes, equipped with Litton LTN 90 or LTN 90-100 Inertial Reference Units, certificated in any category. Compliance is required within 45 days after the effective date of this AD, unless previously accomplished.

To prevent the loss of accurate attitude and heading information, accomplish the following:

A. Remove the three inertial reference units (IRU), modify the wiring in Zone 121, and install modified IRU's, in accordance with the following service bulletins:

Airplane model	Service bulletin
A310	A310-34-2052, Revision 1, dated Dec. 7, 1989.
A300-600	A300-34-6029, Revision 1, dated Dec. 7, 1989.

Note: These service bulletins reference Litton Service Bulletins 34-90-102 and 34-90-98 for additional instructions.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Avionics Inspector (PAI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on March 16, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-6748 Filed 3-23-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-27-AD]

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 747 airplanes, which currently requires repetitive inspections for cracks; testing of leading edge pneumatic ducts, including "T" ducts; repair or replacement, as necessary; and provides an optional terminating action. Cracked or ruptured ducts, if not corrected, could lead to damage to the wing leading edge and other associated problems. This action would revise the provisions of the existing rule by requiring the replacement of Titanium T-ducts with Inconel T-ducts, and stress relieving of all other leading edge pneumatic ducts, as terminating action for the required inspections. This proposal is prompted, in part, by the discovery that the existing AD incorrectly implies that the stress relieving procedure constitutes terminating action for titanium T-ducts. Additionally, the FAA has determined that, in the interests of continuing airworthiness, the terminating action must be mandatory.

DATES: Comments must be received no later than May 15, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-27-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mahinder K. Wahi, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1955. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to the Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-27-AD." The post card will be date/time stamped and returned to the commenter.

Discussion: On July 21, 1988, the FAA issued AD 88-17-07, Amendment 39-5986 (53 FR 28856; August 1, 1988), to require inspection and testing of leading edge pneumatic ducts, and repair or replacement, as necessary. That action was prompted by reports of cracked or ruptured ducts which have resulted in damage to wing panels and electrical wiring, accompanied by erratic and erroneous cockpit indications. This condition, if not corrected, could result in damage to the wing leading edge, or improper pilot action in response to misleading cockpit indications.

Since issuance of that AD, the FAA has re-evaluated the description of the terminating action specified in AD 88-17-07. Paragraph D. of that AD states that accomplishment of leading edge pneumatic duct stress relief is terminating action for the repetitive penetrant inspections required for all leading edge pneumatic ducts, including titanium T-ducts. This is erroneous. The FAA has determined that the effective terminating action for the penetrant inspections of titanium T-ducts is replacement of those ducts with Inconel T-ducts.

The FAA has reviewed and approved Boeing Service Bulletin 747-36-2059, dated June 3, 1983, which describes procedures for replacing the titanium T-ducts with Inconel T-ducts.

Additionally, AD 88-17-07 currently requires repetitive penetrant inspections of the leading edge pneumatic ducts at intervals not to exceed 7,000 flight cycles. However, failure history shows that failures can occur in the range of 700 to 21,000 flight cycles. Therefore, a repetitive inspection at 7,000 flight cycles may not be sufficient to prevent ruptured wing leading edge pneumatic ducts and subsequent damage to leading edge panels and/or electrical wiring. Accordingly, the FAA has determined that the compliance time for the next penetrant inspection must be reduced, and that terminating action must be accomplished on all airplanes in order to eliminate duct cracking/rupture and to eliminate the need for repetitive inspections. Failure to detect cracked ducts could result in rupture of the duct and subsequent damage. This proposed requirement is consistent with the FAA's determination that long term continued operational safety will be better assured by installation of design modifications to remove the source of the problem, rather than by repetitive inspections.

The FAA has reviewed and approved Boeing Service bulletin 747-36A2074, Revision 3, dated May 11, 1989, which describes procedures for penetrant inspection, proof pressure testing, weld stress relieving, repair, modification, and replacement of leading edge pneumatic ducts. Among other things, this revision of the service bulletin adds procedures for the hydrostatic proof pressure testing of Group 1 airplanes, thereby eliminating the separate procedures formerly specified for Group 1 and Group 2 airplanes.

Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is proposed which would supersede AD 88-17-07 with a new AD that would (1) reduce the compliance time for the next penetrant inspection of the wing leading edge pneumatic ducts; (2) require that the revised proof pressure test be accomplished on all airplanes; (3) revise and require the accomplishment of the terminating action for the penetrant inspections of titanium T-ducts as replacement of those ducts with Inconel T-ducts; and (4) require accomplishment of the previously optional terminating action (stress relief procedure) for all other T-ducts. These actions would be required to be accomplished in accordance with the service bulletins previously described. This AD would also eliminate the distinction between

requirements for "Group 1" and "Group 2" airplanes, as specified in the existing AD.

There are approximately 640 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 172 airplanes of U.S. registry would be affected by this AD, that it would take approximately 272 manhours per airplane to accomplish the required initial inspection and test, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators would be $1,871,360 for the initial required action.

Additionally, terminating action for the titanium T-ducts would require parts replacement at an estimated cost of $6,000 per airplane, for a total replacement parts cost of $1,032,000 for the affected fleet.

Based on the figures explained above, the total cost impact of this AD on U.S. operators is estimated to be $2,903,360.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 88–17–07, Amendment 39–5986 (53 FR 28856; August 1, 1988), with the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes except Model 747–400 airplanes, line position 2 and subsequent, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent damage to wing panels and/or electrical wiring as a result of failure of wing leading edge ducts, accomplish the following:

A. Prior to the accumulation of 5,850 flight cycles, or within the next 1,850 flight cycles after the effective date of this AD, whichever occurs later, conduct a penetrant inspection and proof pressure test in accordance with the Accomplishment Instructions, Items A. through F., J., and K., of Boeing Service Bulletin 747–36A2074, Revision 3, dated May 11, 1989.

Note: The stress relieving procedure specified in Items G., H., and I. of the service bulletin may be accomplished in conjunction with the penetrant inspection required by this paragraph, and constitutes terminating action for the requirements of paragraph B., below, for all leading edge pneumatic ducts, except titanium T-ducts, which require replacement in accordance with paragraph C., below, as terminating action.

B. For all leading edge pneumatic ducts, other than titanium T-ducts: Prior to the accumulation of 3,000 flight cycles after accomplishment of the inspection required by paragraph A., above, conduct a penetrant inspection, proof pressure test, and stress relieving in accordance with Accomplishment Instructions, Items A. through K., of Boeing Service Bulletin 747–36A2074, Revision 3, dated May 11, 1989, on the leading edge pneumatic ducts.

C. For titanium T-ducts: Prior to the accumulation of 3,000 flight cycles after accomplishment of the inspection and test required by paragraph A., above, replace titanium T-ducts with Inconel T-ducts in accordance with Boeing Service Bulletin 747–36–2059, dated June 3, 1983. Accomplishment of this replacement constitutes terminating action for the requirements of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may by used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received copies of the service bulletins cited herein may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on March 16, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–6749 Filed 3–23–90; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3748–7]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to approve portions of the State of Michigan's local Wayne County Air Pollution Control Division (WCAPCD) regulations, submitted as a revision to the federally approved Michigan State Implementation Plan (SIP) for Wayne County.

The WCAPCD's regulations of 1965, as amended, and submitted to USEPA in 1972, then resubmitted as part of the Appendix to the State of Michigan's April 25, 1979, SIP submittal, are part of the Michigan federally approved SIP. The subject of today's notice is a set of revisions to those WCAPCD regulations which are submitted to USEPA to be incorporated into the Michigan SIP. These revised WCAPCD regulations have been adopted as Wayne County Law as of November 18, 1985. USEPA proposes to approve portions of these WCAPCD regulations as a supplement to the current federally approved Michigan SIP.

USEPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with a nominal diameter of 10 micrometers or less (PM_{10}). However, at

the State's options, EPA is continuing to process SIP revisions which were in progress at the time the new PM_{10} standard was promulgated. In the policy, published on July 1, 1987, (p. 24679, column 2), USEPA stated that it would regard existing particulate SIPs as necessary interim particulate matter plans during the period proceeding the approval of State plans specifically aimed at attaining the national ambient air quality standards (NAAQS).

DATES: USEPA must receive comments on or before April 25, 1990.

ADDRESSES: Written comments should be sent to: (Please submit an original and five copies, if possible): Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's evaluation are available for inspection during normal business hours (it is recommended that you telephone Ms. Toni Lesser, at (312) 886-6037, before visiting the Region V office):

U.S. Environmental Protection Agency, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, Stevens T. Mason Building, 530 West Allegan, Lansing, Michigan 48909.

Wayne County Health Department, Air Pollution Control Division, 2211 East Jefferson, Detroit, Michigan 48207.

FOR FURTHER INFORMATION CONTACT: Ms. Toni Lesser, Michigan Regulatory Specialist, (312) 886-6037.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 1972 (37 FR 10873), USEPA approved Michigan's SIP submittal of February 3, 1972, which included Wayne County regulations that had been adopted and were effective at the County level on July 23, 1965.

On May 6, 1980 (45 FR 29790), USEPA announced final rulemaking action on specific portions of the State of Michigan's April 25, 1979, SIP submittal which was intended to satisfy the requirements of part D of the Clean Air Act (CAA) and deferred regulatory action on other SIP elements. Although USEPA's May 6, 1980, final rulemaking did not specifically acknowledge approval of the WCAPCD's regulations (resubmitted with some amendments as an appendix to the State of Michigan's April 25, 1979, SIP submittal), USEPA maintains that the WCAPCD's regulation (as appended), were incorporated into the State's federally approved SIP by the May 6, 1980, final rulemaking action.

On October 10, 1986, the State of Michigan submitted portions of the revised WCAPCD regulations as a revision to the Michigan federally approved SIP. The revised WCAPCD regulations are designed to incorporate by reference the standards established under the existing federally approved State rules. Michigan's submittal requests that USEPA take action on the portions of the revised WCAPCD regulations discussed below.

USEPA reviewed the revised WCAPCD regulations and compared these rules with Wayne County's current federally approved regulations, the State of Michigan's federally approved regulations and the regulation's USEPA deferred rulemaking action on. USEPA prepared technical support documents (TSDs) dated February 17, 1987; February 23, 1987, and March 10, 1987; which contain evaluations of the October 10, 1986, SIP submittal for Wayne County. Presented below is a summary of the revised WCAPCD regulations.

A. Chapter 1—Definitions

Section 101—ascribes meanings to words and phrases.

Section 102—contains definitions for the WCAPCD regulations.

B. Chapter 2—General Provisions

Section 201 thru Section 208—contain administrative provisions which describe the administration and organization of WCAPCD regulations.

C. Chapter 3—Enforcement

Section 301 thru Section 305—discuss orders, right of entry, violations, penalties and injunctions.

D. Chapter 4—Air Use Approval and Permits.

Section 401 thru Section 411—contain information on installation permits and procedures; construction of VOC sources in ozone nonattainment areas; construction of particulate matter sources; sulfur dioxide or carbon monoxide sources in or near nonattainment areas; permit suspension, revocation, change of ownership and exemption.

E. Chapter 5—Emission Limitations and Prohibitions: Particulate Matter

Section 501 of Wayne County's rules for particulate matter incorporate by reference, Michigan's federally approved rules: (Standards for Density Emissions—R336.1301); Electrostatic Preciptator Control Systems—R336.1330); (Emission of Particular Matter—R336.1331); (Air Contaminant Emission from Steel Manufacturing Facilities R336.1350-R336.1367 (inclusive)); and (Collected Air Contaminants—R336.1370).

Section 502—Requires certification of visible emissions observers every six (6) months.

Section 503—limits emissions from spray painting operations as follows: (1) For non-production spray painting (paint usage of less than 20 gallons per day), the allowable particulate emissions shall be 0.02 pounds of particulate per 1000 pounds of exhaust gas; (ii) for production spray painting (paint usage of 20 gallons or more per day), the allowable particulate emissions shall be 3 grains per thousand standard cubic feet (or 0.006 pounds of particulate per 1000 pounds of exhaust gas).

Section 504—Limits visible emissions from mobile sources to 20 per cent opacity (instantaneous, i.e., not a 6-minute average).

Section 505—Requires fugitive dust emissions to be controlled using "reasonable measures to abate or control the emission of fugitive dust." A list of recommended measures is specified, but no performance criterion is established.

F. Chapter 7—Emission Limitations and Prohibitions: Existing and New Sources of Volatile Organic Compounds (VOCs).

Section 701—Incorporates the State of Michigan's federally approved (May 6, 1980, part 6—Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound Emissions) rules, for existing sources of VOC.

Section 702—Incorporates the State of Michigan's federally approved (May 6, 1980, part 7—Emission Limitation and Prohibitions—New Sources of Volatile Organic Compound Emissions) rules, for new sources of VOC.

G. Chapter 8—Emission Limitations and Prohibitions—Miscellaneous

Section 801—Incorporates the State of Michigan's federally approved (May 6, 1980, part 9—Emission Limitations and Prohibitions—Miscellaneous, R336.1901; R336.1906; R336.1910; R336.1911; R336.1912; and R336.1930) rules.

Section 802—Requires an odor intensity scale to be used to classify odors. A violation of State Rule 802 is defined as any odor intensity of 2 or more.

Section 803—Incorporates by reference the provisions of the Federal Clean Air Act's (CAA) new source performance standard (NSPS) provisions, 40 Code of Federal Regulations (CFR) part 60, and requires

any waiver form NSPS to be secured pursuant to section 111(j) of the CAA. Also, incorporated by reference are 40 CFR 52.21 (Prevention of Significant Deterioration (PSD) provisions) and 40 CFR part 61 (National Emission Standards for Hazardous Air Pollutants (NESHAPS)) provisions. Finally, the section provides that compliance with NSPS, PSD, or NESHAPS does not exempt a source from the emission limits and prohibitions contained in Wayne County's Ordinance.

Section 804—Prohibits the use, installation or operation of any waste-burning emission source or equipment.

Section 805—Prohibits the burning of coal in any residential, commercial, or school building for the purpose of providing space or water heating.

Section 806—Prohibits the dry blasting or cleaning of the exterior of any structure including buildings, overpasses, bridges, mobile sources or stationary or mobile tanks.

Section 807—Prohibits the use or operation of any emission source for which control equipment is required under the ordinance, unless the control equipment is utilized and maintained in a manner to assure compliance with the emission limitations and prohibitions of the ordinance.

Section 808—Discusses change of conditions.

Section 809—Prohibits ignition of open fires, except for exemptions such as: Control of crop disease; training firemen; ceremonial or recreational purposes when properly controlled; and warming of workers if temperature is lower than 32 degrees Farenheit.

Section 810—Use of Improper Fuels in Motor Vehilces is replaced by WCAPCD Ordinance for Motor Vehicle Tampering and Fuel Switching. The WCAPCD submitted an ordinance with prohibitions on tampering with motor vehicle emission control systems or devices; prohibits the use of improper fuels in motor vehicles; and provides for implementation and enforcement by the WCAPCD, and provides for penalties and remedies. The rules contains the following sections: (1) Applicability, (2) definitions, (3) prohibitions of motor vehicles, (4) fuel switching, (5) inspections (6) authority to require repair or replacement of emission control systems and (7) penalties (Civil and Criminal).

H. Chapter 9—Sealing of Emission Sources

Sealing of emission sources, as defined in chapter 1, section 102 of the Wayne County Air Pollution Control Ordinance definitions means a device installed on or in a manner approved by the Division so as to prevent the use of the emission source or premises.

Section 901—Allows sealing of a source if the source lacks either a permit/certificate to install (or to operate) or if the owner/operator of an emission source has received three or more violations within 12 (consecutive) months.

Section 902—Requires an emission source to be sealed when the Director orders. No penalty is mentioned for noncompliance.

Section 903—Requires the Director to provide written notice to anyone owning or operating an emission source which should be sealed, stating the problem and requiring either correction or sealing within 30 days. Failure of the source owner or operator to comply with this order will result in a second notice and sealing of the source by the Director. The notice shall inform the person of the right to appeal.

I. Chapter 10—Variances

Sections 1001 thru 1004—Provides that granting of a variance shall not relieve a person from any liability imposed by other requirements of the ordinance and other state or local rules or regulations. Includes the requirement that issuance of a variance will not prevent or interfere with the attainment or maintenance of any relevant ambient air quality standard.

J. Chapter 11—Testing and Sampling

Sections 1101 and 1102—Incorporates the State of Michigan's (federally approved May 6, 1980, part 10—Intermittent Test and Sampling Rules 336.2001–2004) rules for performance testing by the owner and by the commission; specifies test criteria; and references the "Division Requirements for Emission Source Testing," Appendix A.

K. Chapter 12—Continuous Emission Monitoring and Recording

Section 1201 thru 1203—Incorporates the State of Michigan's Continuous Emission Monitoring (CEM) rules (federally approved November 2, 1988, 53 FR 44189) and gives the WCAPCD the authority to require CEM on sources.

L. Chapter 13—Air Pollution Episodes

Section 1301 thru 1303—Incorporates the State of Michigan episode rules (federally approved November 2, 1988), and establishes procedures for episode emission abatement programs and episode orders.

M. Appendices

The WCAPCD submitted appendices for the "Division Requirements for Emission Source Testing"; installation permit application requirements, division requirements for CEM and recording, and division fee schedule.

Note: Chapter 6—Emission Limitations and Prohibitions—Sulfur Bearing Compounds was not submitted as a revision to the Michigan SIP.

USEPA's Proposed Rulemaking Actions

1. Proposed Approval

USEPA has reviewed the revised WCAPCD regulations and believes the following rules to be approvable as a supplement to the State of Michigan's current federally approved SIP (May 6, 1980, 45 FR 29790). Approval of these rules will not interfere with USEPA's continued ability to enforce the State of Michigan's SIP rules in Wayne County as they remain in effect, and sources in Wayne County must meet both sets of rules. In addition, approval of these rules will not interfere with the State of Michigan's federally approved SIP (which is based on the State's rules). The new rules do not appear to constitute a relaxation from the 1972 WCAPCD rules, submitted as an appendix to the State of Michigan's April 25, 1979 SIP. USEPA proposes the following rules for approval:

A. Chapter 1—Approvable.

B. Chapter 2—Approvable.

C. Chapter 3—Approvable.

D. Chapter 5—These rules contain emission limits and prohibitions with respect to particular matter. USEPA believes only sections 503 and 504 are approvable and then on the condition that WCAPCD revise section 504 to clarify the meaning of "instantaneous." Presently, section 504 describes the visible emission limit from a mobile source as that of a density equal to or greater than 20 percent opacity. USEPA has interpreted instantaneous 20 percent opacity limitations to require a single observation. The Method F–1 guidance package recently proposed by USEPA defines "instantaneous" as a two-minute average. USEPA proposes approval on the condition that the WCAPCD during the comment period provides an official clarification of the meaning of the term "instantaneous" as used in section 504 of the WCAPCD regulations. USEPA's disapproval of the remaining portions of chapter 5 will be explained later in the disapproval portion of this notice.

E. Chapter 8—Approvable. However, the section 804 did not address RACT control of waste burning equipment. In addition, section 804 does not contain a performance criterion. USEPA is not acting on section 802, because it has no

authority under the Clean Air Act to regulate odor, per se.

F. Chapter 9—Approvable.

G. Chapter 10—Approvable. However, USEPA wishes to reiterate its long-standing position that state- or locally-granted variances do not change the Federally-enforceable SIP unless that variance is submitted to and approved by USEPA.

H. Chapter 11—Approvable.

I. Chapter 12—Approvable.

J. Chapter 13—Approvable.

2. Proposed Disapproval

A. Chapter 5—With the exception of sections 503 and 504, USEPA believes this rule should be disapproved. In particular, section 505 fails to provide an equally stringent level of particulate control as the previously approved rule for fugitive dust sources (WCAPCD 1972 Regulations, section 6.6—Wind Born Pollutants). USEPA believes this represents a relaxation of the State SIP without a demonstration of attainment.

B. Chapter 7—The WCAPCD rules contained in sections 701 and 702 are not approvable because portions of the State's current VOC rules for existing and new sources (the rule for existing sources was federally approved on May 6, 1980 and July 26, 1982), which chapter 7 incorporates, would not currently be approvable.

A significant deficiency is contained in Michigan's graphic arts rule which allows averaging on an annual basis. USEPA approved Michigan's RACT II rules on July 26, 1982 (47 FR 32116) with the understanding that Michigan would shorten the averaging time, which it has not done. In addition, USEPA has taken no action on the State of Michigan's part 7—Emission Limitations and Prohibitions—New Sources of VOC Emissions. [CFR, § 52.1170(c) (16) and (18)]

3. No Action

USEPA proposes to take no action at this time on the following rules:

A. Chapter 4:

1. Section 401—Installation Permits
2. Section 402—Waivers of Approval
3. Section 403—Information Required
4. Section 404—Approval or Denial
5. Section 405—Construction of Sources of VOC Ozone Nonattainment Areas; Conditions for Approval
6. Section 406—Construction of Sources of Particulate Matter, Sulfur Dioxide, or Carbon Monoxide in or Near Nonattainment Areas; Conditions for Approval
7. Section 407—Certificates of Operation
8. Section 408—Suspension and Revocation
9. Section 409—Air Quality Modeling
10. Section 410—Change of Ownership
11. Section 411—Permit Exemptions

WCAPCD submitted the revised chapter 4 to replace article IV of the 1972 currently federally approved WCAPCD rules. USEPA believes it is presently inappropriate to take rulemaking action on chapter 4 of the revised WCAPCD rule, because USEPA has identified deficiencies in the State's current federally approved rules which may also be contained in the local rule.

A 30-day public comment period is being provided on this notice of proposed rulemaking. Public comments received on or before April 25, 1990 will be considered in USEPA's final rulemaking action.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget for review.

Pursuant to the provision of 5 U.S.C., section 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities because it merely approves or disapproves for Federal purposes rules that are already in effect and enforceable at the County level.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Ozone, Particulate matter, Sulfur dioxide, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: March 31, 1987.

Valdas V. Adamkus,

Regional Administrator.

Editorial note: This document was received at the Office of the Federal Register March 21, 1990.

[FR Doc. 90–6774 Filed 3–23–90; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 55, No. 58
Monday, March 26, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National Advisory Council on Commodity Distribution; Meeting Announcement

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Council on Commodity Distribution is scheduled for April 18 and 19, 1990. The council, established by the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237) meets biannually to assist the Secretary of Agriculture in the development of commodity specifications.

DATES: The meeting will take place on Wednesday and Thursday, April 18 and 19 from 8:30 a.m. to 5:30 p.m.

ADDRESSES: The meeting will be held at the Quality Hotel—Capitol Hill, 415 New Jersey Avenue NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly King, Deputy Director, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302, (703) 756–3680.

SUPPLEMENTARY INFORMATION: This is the fourth meeting of the National Advisory Council on Commodity Distribution, as established by section 3(a)(3) of Public Law 100–237. The purpose of the council is to provide guidance to the Secretary of Agriculture on regulations and policy development with respect to specifications for commodities. If time permits, the general public will be allowed to participate in the discussions. The agenda will be available 15 days prior to the meeting. Requests for the agenda should be sent to Ms. Alberta C. Frost, Executive Secretary, National Advisory Council on Commodity Distribution, USDA, Food and Nutrition Service, 3101 Park Center Drive, room 502, Alexandria, Virginia 22302. Comments may be filed with Alberta C. Frost before or after the meeting.

Dated: March 19, 1990.

Betty Jo Nelsen,

Administrator.

[FR Doc. 90–6762 Filed 3–23–90; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

Final Environmental Impact Statement for the Rock Creek/Muddy Creek Reservoir and Forest Service, USDA; Record of Decision

AGENCY: Forest Service, USDA.

ACTION: Date Correction to Record of Decision.

SUMMARY: The Record of Decision for the Rock Creek/Muddy Creek Reservoir Final Environmental Impact Statement was distributed without a dated signature. A corrected Record of Decision has been mailed to all groups, agencies, and individuals on the original distribution list. The 45-day administrative review period will begin the day following the date recorded on the corrected Record of Decision. This publication in the **Federal Register** shall also act as notice of the 45-day administrative review period.

ADDRESSES: Requests for review of the Forest Service Record of Decision must be sent to the Chief, USDA Forest Service, P.O. Box 96090, Washington, DC, 20250 within 45 days of the date of the Record of Decision.

FOR FURTHER INFORMATION CONTACT:

Larry Keown, USDA Forest Service, Routt National Forest, 29587 West U.S. 40, Steamboat Springs, Colorado, 805477. Telephone (303) 879–1722.

Gary Cargill, Regional Forester, Rocky Mountain Region, 11177 West 8th Avenue, P.O. Box 25127, Lakewood, CO 80225 is the responsible official.

Dated: March 19, 1990.

Tom L. Thompson,

Deputy Regional Forester.

[FR Doc. 90–6675 Filed 3–23–90; 8:45 am]

BILLING CODE 3410–11–M

Draft Environmental Impact Statement and Proposed Land and Resource Management Plan for the Shasta-Trinity National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice of public hearings.

SUMMARY: The Forest Service will hold three public hearings to receive substantive comments on the draft Environmental Impact Statement and Proposed Forest Land and Resource Management Plan for the Shasta-Trinity National Forests Hearings will be held at each of the following locations on the dates indicated:

June 19, 1990, Holiday Inn, 1900 Hilltop Drive, Redding, California. Time: 1 to 4 p.m. and 7 to 10 p.m.

June 20, 1990, Civil Defense Hall, Weaverville, California. Time: 1 to 4 p.m. and 7 to 10 p.m.

June 21, 1990, Mt. Shasta City Park, Recreation Center, 1315 Nixon Road, Mt. Shasta City, California. Time: 1 to 4 p.m. and 7 to 10 p.m.

The hearings will be conducted by a hearing officer. A court reporter will keep a verbatim record of all oral testimony. Advance registration for presentation of oral comments at the hearings will be accepted up to the day before the hearing date by telephone or through the mail by contacting the receptionist at the Forest Supervisor's Office, 2400 Washington Avenue, Redding, CA 96001 (tel. 916–246–5313). Persons who have not registered in advance may register to speak at the hearing location beginning one-half hour prior to the hearing.

Hearings will begin at the scheduled hours and will continue until those persons present and desiring to speak have had the opportunity to do so or until the time the hearing is scheduled to end, whichever occurs earliest. Elected officials will be entitled to speak first. Other speakers will be asked to give comments in the order of registration. Each person may be limited to a five minute presentation to ensure that everyone has an opportunity to speak.

The Forest Service has established basic rules and procedures for conducting the hearings. Rules needed for the orderly conduct of the hearings will be announced by the hearing officer at the start of the hearings. The Forest Service will neither respond to comments nor debate issues during the

hearings. There will be no cross-examination of persons presenting statements. A transcript of the hearings will be prepared and made available for purchase to interested parties.

FOR FURTHER INFORMATION CONTACT: Direct questions about the hearings to Royal Mannion, Public Affairs Officer, Shasta-Trinity National Forests, 2400 Washington Avenue, Redding, CA 96001. Telephone (916) 246-5443.

Dated: March 14, 1990.

Robert R. Tyrrel,

Forest Supervisor.

[FR Doc. 90-6725 Filed 3-23-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Postponement of Preliminary Antidumping Duty Determination: Gray Portland Cement and Clinker from Mexico (A-201-802)

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the petitioner in this investigation to postpone the preliminary determination, as permitted in section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), (19 U.S.C. 1673b(c)(1)(A)). Based on this request, we are postponing our preliminary determination as to whether sales of gray Portland cement and clinker from Mexico have occurred at less than fair value until not later than April 3, 1990.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Saeed, Brad Hess, or Louis Apple at (202) 377-1777, 377-3773 or 377-1769, respectively, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On January 24, 1990 we published a notice of postponement (55 FR 2397) of the preliminary determination in the antidumping duty investigation to determine whether gray Portland cement and clinker from Mexico are being, or are likely to be, sold in the United States at less than fair value. The notice stated that we would issue our preliminary determination by March 19, 1990.

On March 16, 1990 counsel for petitioner requested that the Department postpone the preliminary determination by 15 days, i.e., until not later than 189 days after the date of receipt of the petition, in accordance with section 733(C)(1)(A) of the Act. Accordingly, we are postponing the date of the preliminary determination until not later than April 3, 1990. The U.S. International Trade Commission is being advised of this postponement in accordance with section 733(f) of the Act.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: March 16, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-6758 Filed 3-23-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-805]

Initiation of Antidumping Duty Investigation; Electromechanical Digital Counters From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of electro-mechanical digital counters (EMDC's) from Brazil are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of EMDC's from Brazil are materially injuring, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 13, 1990. If that determination is affirmative, we will make a preliminary determination on or before August 6, 1990.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: James P. Maeder, Jr. or Mary S. Clapp, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4929 or (202) 377-3965, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On February 27, 1990, we received a petition filed in proper form by ENM Company. In compliance with the filing requirements of the Department's regulations (19 CFR 353.12(1989)), petitioner alleges that imports of EMDC's from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry. Petitioner also alleges that critical circumstances exist with respect to imports of EMDC's from Brazil.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in section 353.14 of the Department's regulations.

United States Price and Foreign Market Value

Petitioner's estimates of United States Price (USP) for EMDC's are based on (1) an export price quoted by Veeder-Root do Brasil (Veeder-Root), (2) pricing information obtained from U.S. customers, and (3) an average import price calculated from IM-146 import statistics.

Petitioner's estimate of Foreign Market Value (FMV) for EMDC's is based on constructed value. Constructed value is based on petitioner's cost of manufacture adjusted for known differences between Brazilian and U.S. costs. Petitioner added the statutory eight percent profit minimum, pursuant to section 773(e) of the Act, to the Brazilian manufacturer's estimated costs.

We have accepted as the basis for the LTFV allegation petitioner's comparison of United States price (based on Veeder-Root's export price quote) with FMV. This methodology results in estimated dumping margins of 92.27 percent to 141.71 percent. We have rejected the LTFV allegation using the U.S. pricing information obtained from U.S.

customers because this information is more than two years old. We have also rejected the LTFV allegation using the average import price calculated from IM–146 import statistics because these statistics were derived from an HTS basket category which includes a wide variety of other types of counters, tachometers, odometers, etc., which are not covered by the petition.

Initiation of Investigation

Under section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on EMDC's from Brazil and found that the petition meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of EMDC's from Brazil are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by August 6, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS subheadings. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of the product coverage.

Imports covered by this investigation are shipments of EMDC's from Brazil. EMDC's are defined as devices or instruments for summing, either directly or through inference, and indicating a total number of units of any kind (items, events, pulses, length, etc.), whether or not resettable, wherein the units to be counted are detected by electrical means, and the count is displayed by rotating numbers on wheels. EMDC's are currently classifiable under HTS subheading 9029.10.8000. The scope of this investigation does not include mechanical counters or electronic counters (*i.e.*, light emitting diode counters (LEDC) and light crystal display counters (LCDC), etc.).

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations.

Preliminary Determination by ITC

The ITC will determine by April 13, 1990, whether there is a reasonable indication that imports of EMDC's from Brazil are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: March 19, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-6757 Filed 3-23-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-809]

Final Negative Countervailing Duty Determination; Limousines From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Canada of limousines, as described in the "Scope of Investigation" section of this notice.

EFFECTIVE DATES: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Beth Graham-Wysocki, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–2815 or 377–4105.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that no benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters of limousines in Canada.

Case History

Since publication of the *Preliminary Negative Countervailing Duty Determination: Limousines from Canada* (54 FR 43444, October 25, 1989), the following events have occurred. On September 18, 1989, we received a request from the petitioner, pursuant to section 705(a)(1) of the Act, to extend the date of the final determination to correspond with the date of the final determination in the antidumping investigation of the same product from Canada. We extended the due date to March 19, 1990, and published notice of the extension in the **Federal Register** (*Alignment of Final Countervailing Duty and Antidumping Duty Determinations and Postponement of Countervailing Duty Public Hearing: Limousines from Canada* (54 FR 48010, November 20, 1989)).

From February 7 to February 9, 1990, we conducted verification in Canada of the questionnaire responses of the Government of Canada, the Government of Ontario and A.H.A. Manufacturing Limited (AHA).

None of the interested parties requested a public hearing or submitted briefs.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after this date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are

provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The product covered by this investigation is limousines, which is defined as extended wheelbase and expanded seating capacity motor vehicles principally designed for the transport of persons, of a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders (gasoline-engine powered). The vehicles are built on Lincoln Town Car, Mercury Grand Marquis, Cadillac Brougham or any other six or eight cylinder gasoline engine powered chassis. The vehicle is cut in half and the wheelbase is extended, thereby providing additional rear seating capacity, area and comforts. The sheet metal work is formed to complement the original design of the base car. The vehicles are used by private individuals, corporations and limousine services.

Prior to January 1, 1989, limousines were classifiable under items 806.2040, 692.1015, and 692.1030 of the *Tariff Schedules of the United States Annotated* (TSUSA). The HTS classification for the subject merchandise changed as of January 1, 1990. HTS subheadings 8703.23.00.75 and 8703.24.00.75 no longer exist. These have been replaced by the following subheadings: 8703.23.00.72, 8703.23.00.74, 8703.23.00.76, 8703.23.00.78, 8703.24.00.62, 8703.24.00.64, 8703.24.00.66, and 8703.24.00.68. In addition, limousines might be eligible to be entered under HTS subheadings 8703.23.00.62, 8703.23.00.64, 8703.23.00.66, 8703.23.00.68, 8703.24.00.52, 8703.24.00.54, 8703.24.00.56, 8703.24.00.58, 9802.00.50.40, and 8702.90.00.00.

Analysis of Programs

For purposes of this final determination, the period for which we are measuring subsidies ("the review period") is calendar year 1988, which corresponds to the last complete fiscal year of AHA. Based upon our analysis of the petition, the responses to our questionnaires, and verification, we determine the following:

Programs determined not to be used. We determine that manuufacturers, producers, or exporters in Canada of the subject merchandise did not receive benefits during the review period for exports of the subject merchandise to the United States under the programs listed below. These programs were described in the preliminary determination in this investigation:

A. Federal Programs

1. *Program for Export Market Development and Promotional Projects Program*
2. *Certain Investment Tax Credits*
3. *Regional Development Incentive Program*
4. *Industrial and Regional Development Program*
5. *Export Credit Financing*
6. *Loans under the Enterprise Development Program*
7. *Community-Based Industrial Adjustment Program Grants*

B. Joint Federal-Provincial Programs

1. *General Development Agreements*
2. *Economic and Regional Development Agreements*

C. Provincial Program

Ontario Development Corporation Export Support Loans, Other Loans and Loan Guarantees

Verification

We verified the information used in making our final determination in accordance with section 776(b) of the Act. We used standard verification procedures including meeting with government and company officials, examining relevant documents and accounting records, tracing information in the responses to source documents, accounting ledgers and financial statements, and collecting additional information that we deemed necessary for making our final determination. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Since we have determined that no subsidies are being provided to manufacturers, producers or exporters in Canada of limousines, the investigation will be terminated upon publication of this notice in the **Federal Register**. Hence, the ITC is not required to make a final injury determination with respect to this countervailing duty proceeding.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Dated: March 19, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-6759 Filed 3-23-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-808]

Final Determination of Sales at Less Than Fair Value; Limousines From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that limousines from Canada are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of limousines from Canada as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine within 45 days of the publication of this notice whether these imports materially injure, or threaten material injury to, a U.S. industry.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Karmi Leiman or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-8498 or 377-5288, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that limousines from Canada are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. section 1673d(a)) (the Act). The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On January 2, 1990, the Department issued an affirmative preliminary determination (55 FR 764, January 9, 1990). Since that time the following events have occurred:

Interested parties submitted comments in case briefs dated February 12, 1990 and in a rebuttal brief dated February 21, 1990. A public hearing was held on February 22, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of

customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The product covered by this investigation is limousines, which is defined as extended wheelbase and expanded seating capacity motor vehicles principally designed for the transport of persons, of a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders (gasoline-engine powered). The vehicles are built on Lincoln Town Car, Mercury Grand Marquis, Cadillac Brougham or any other six or eight cylinder gasoline engine powered chassis. The vehicle is cut in half and the wheelbase is extended, thereby providing additional rear seating capacity, area and comforts. The sheet metal work is formed to complement the original design of the base car. The vehicles are used by private individuals, corporations and limousine services.

Prior to January 1, 1989, limousines were classifiable under items 806.2040, 692.1015 and 692.1030 of the *Tariff Schedules of the United States Annotated* (TSUSA). The HTS classification for the subject merchandise changed as of January 1, 1990. HTS subheadings 8703.23.00.75 and 8703.24.00.75 no longer exist. These have been replaced by the following subheadings: 8703.23.00.72; 8703.23.00.74; 8703.23.00.76; 8703.23.00.78; 8703.24.00.62; 8703.24.00.64; 8703.24.00.66; 8703.24.00.68. In addition, limousines might be eligible to be entered under HTS subheadings 8703.23.00.62, 8703.23.00.64, 8703.23.00.66, 8703.23.00.68, 8703.24.00.52, 8703.24.00.54, 8703.24.00.56, 8703.24.00.58, 9802.00.50.40 and 8702.90.00.00. Limousines entering under the subheadings noted above are subject to antidumping duties.

To further clarify the deposit requirements of this determination, in situations where limousines enter the United States from Canada under HTS subheading 9802.00.50.40 antidumping duties are applicable to the full entered value of the vehicle, not just the "dutiable value-added."

Period of Investigation

The period of investigation is February 1, 1989 through July 31, 1989.

Such or Similar Comparisons

We identified three such or similar categories based on the make of vehicle chassis used in manufacture: Lincoln Town Car, Cadillac Brougham, and Mercury Grand Marquis.

Since there were no identical sales in the home market with which to compare merchandise sold in the United States, sales of the most similar merchandise were compared on the basis of the following criteria, listed in order of importance: floor design (*i.e.*, flat- or hump-floored), console type, model year, extension length. Where possible, we compared sales at the same commercial level of trade (distributor, dealer, or end-user).

Fair Value Comparisons

To determine whether sales of limousines from Canada to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

Where the merchandise was sold to unrelated purchasers prior to importation into the United States, we based the United States price on purchase price as provided for in section 772(b) of the Act. We calculated purchase price based on CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, brokerage and handling, duty, inland freight, cargo insurance, and rebates. Pursuant to section 772(d)(1)(B) of the Act, we added the amount of import duties which have not been collected by reason of exportation of the merchandise to the United States. We did not adjust for interest revenue claimed on U.S. purchase price sales because the reported values could not be verified.

Where the merchandise was sold to unrelated purchasers after importation into the United States, we based the United States price on the exporter's sales price (ESP), as provided for in section 772(c) of the Act. We calculated ESP based on CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for brokerage and handling, duty, inland freight, cargo insurance, rebates, commissions, credit expenses, direct advertising expenses, warranty expenses, and indirect selling expenses including U.S.-specific indirect selling expenses, general indirect selling expenses, indirect advertising expenses, inventory carrying costs, and product liability premiums.

For both purchase price and ESP sales, pursuant to section 772(d)(1)(B) of the Act, we added duty drawback paid by the Canadian government to respondent as a rebate of duties paid on the import of limousine parts. In addition, in accordance with section 772(d)(1)(C) of the Act, we adjusted for Canadian federal sales taxes and Canadian excise taxes which have not been collected by reason of the exportation of the merchandise to the United States.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on the delivered or ex-factory prices to unrelated customers in the home market. We made deductions, where appropriate, for Canadian federal sales taxes, Canadian excise taxes, discounts, rebates, inland freight, cargo insurance, commissions, credit expenses, warranty expenses, pre-delivery inspection expenses, and direct advertising expenses.

When making comparisons involving purchase price sales, we added to the foreign market value the lesser of U.S. indirect selling expenses (including inventory carrying costs, indirect advertising expenses, product liability premiums, and other indirect selling expenses) or home market commissions in accordance with § 353.56(b)(1) of the Department's regulations (19 CFR 353.56 (1989)). In accordance with section 773(a)(4)(B) of the Act, we also accounted for differences in circumstance of sale by adjusting for credit expenses, warranty expenses, third party payments, and direct advertising expenses.

When making comparisons involving ESP sales, we deducted home market indirect selling expenses, including inventory carrying cost, product liability premiums, indirect advertising expenses, and other indirect selling expenses, in accordance with § 353.56(b)(2) of the Department's regulations, up to the amount of the ESP cap.

In the Department's preliminary determination, the ESP cap was calculated as the sum of U.S. indirect selling expenses and the amount, if any, by which U.S. commissions exceeded average home market commissions. We have determined that this methodology is inconsistent with § 353.56(b)(2) of the Department's regulations. For the

purposes of this determination, the ESP cap consists only of U.S. indirect selling expenses. We made a circumstance of sale adjustment for U.S. and home market commissions in accordance with § 353.56(a) of the Department's regulations.

Where appropriate, we made further adjustments to the home market price to account for differences in the physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

"Extended warrantee" expenses claimed by respondent for home market sales could not be verified and thus were not allowed.

Currency Conversion

We used certified rates of exchange, furnished by the Federal Reserve Bank of New York, for the period of investigation.

Verification

We verified the information used in making our final determination in accordance with section 776(b) of the Act. We used standard verification procedures including meeting with company officials, examining relevant documents and accounting records, and tracing information in the responses to source documents, accounting ledgers and financial statements. Our verification results are outlined in detail in the public version of the verification report, which is on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from Canada. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

We examined recent antidumping duty cases and found that there are currently no findings of dumping in the United States or elsewhere of the subject merchandise by Canadian manufacturers, producers, or exporters of the subject merchandise. Therefore, we conclude that there is no history of dumping.

It is the Department's practice to impute "knowledge" of dumping when the estimated margins are of such a magnitude that the importer should realize that sales in the United States are being made at less than fair value. Normally we consider estimated margins of 25% or greater to be sufficiently high to impute "knowledge." However, in cases where the foreign manufacturer sells in the United States through a related company, lower margins may be sufficient. The margins found in this case were not sufficiently high to impute knowledge of sales at less than fair value.

We generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) the volume and value of the imports; (2) seasonal trends (if applicable); (3) the share of domestic consumption accounted for by imports.

Because the Department's import data pertaining to the subject merchandise are based on basket TSUSA and HTS categories, we requested specific data on shipments of the subject merchandise as the most appropriate basis for our determinations of critical circumstances.

Based on our analysis of the monthly shipment data submitted by the respondent, we have found that imports of the subject merchandise have not been massive over a relatively short period of time because they did not increase by more than 15% in the period following the Department's initiation.

The criteria of section 735(a)(3) of the Act have not been met in this case. Therefore, we conclude that critical circumstances do not exist with respect to imports of limousines from Canada.

Interested Party Comments

Comment 1: The United States Coachbuilders Coalition for Fair Trade (Coalition) argues that the Department should find that critical circumstances exist in this case. The respondent, A.H.A Manufacturing Limited (AHA), went into receivership after the Department's preliminary determination and the Coalition fears that AHA will liquidate existing inventory at extremely low "fire sale" prices.

AHA argues that, even assuming that a "fire sale" is imminent, a critical circumstances finding would be meaningless because any imports of the subject merchandise from Canada shipped after the Department's preliminary determination are already subject to suspension of liquidation. Furthermore, shipments of the subject merchandise were examined by the Department for critical circumstances purposes, and those shipments were not found to be massive.

Department's Position: We find that critical circumstances do not exist in this case (see the "Critical Circumstances" section of this notice). We required AHA to report monthly shipment data. Subsequent analysis of this data revealed that imports of the subject merchandise were not massive in the period following initiation. However, even if we had found that the imports were "massive," according to the Act either a history of dumping or knowledge of dumping is a prerequisite for an affirmative finding of critical circumstances. As explained in the "Critical Circumstances" section of this notice, there is neither a history of dumping nor were the margins sufficiently high to impute knowledge of dumping.

Comment 2: The Coalition contends that the Department erred in comparing fleet sales in the United States to distributor sales in the home market because these customers are not at the same level of trade. Fleet customers are end-users of limousines and distributors are resellers of limousines. The Coalition argues that the Department should instead compare AHA's sales to U.S. fleet customers with home market sales to end-users.

AHA argues that the Department should compare sales in the U.S. and home markets at the same level of trade. AHA claims that it sells at three levels of trade: distributor/fleet; dealer; and retail (end-user). Fleet and distributor sales should be considered the same level of trade because both types of customers (1) purchase in large quantities, (2) offer predictable business with a long lead time between order and shipment, (3) are sophisticated buyers, requiring less sales effort and follow-up, and (4) are offered prices at the same level in the United States.

There were no sales to fleet customers in the home market during the period of investigation, but AHA contends that fleet sales in Canada just prior to the period of investigation were made at the distributor-level prices.

In addition, AHA argues that the Department should compare sales at the same level of trade without examining whether similar merchandise might be available at a different level of trade.

Department's Position: Fleet customers are livery services that lease limousines and provide chauffeurs. AHA made fleet sales in the United States during the period of investigation. AHA did not make fleet sales in Canada during the period of investigation.

In the Department's preliminary determination in this case, we accepted the respondent's characterization that sales to fleet customers in the United States were properly compared with sales to distributors in the home market. The Coalition disagrees with the respondent's contention that sales to distributors and sales to fleet customers are at the same commercial level of trade. The Coalition would have us consider fleet customers to be at the same commercial level as other end-users. However, fleet customers, compared to other end-users, clearly purchase in larger quantities, at lower prices, and require different sales resources. We find, therefore, that fleet sales are at a different commercial level than end-users.

On the other hand, we do not agree with respondent that we should compare fleet sales in the United States to distributor sales in the home market. Fleet customers are a type of end-user while distributors act as wholesalers for sales to car dealerships and as retailers for sales to end-users. We find, therefore, that fleet sales are at a different commercial level than distributor sales.

Because fleet sales comprise a small portion of U.S. sales and, lacking sales at a comparable level of trade in the home market, we have determined not to include U.S. fleet sales in our comparisons for purposes of this final determination.

With respect to AHA's argument that the Department should use less similar home market sales at the same level of trade before using more similar sales at a different level of trade, it is our longstanding practice to attach more importance to physical similarity than level of trade in making comparisons (see, *e.g., Final Determination: Antidumping Duty Investigation of Tapered Roller Bearings from Japan*, 52 FR 30700, August 17, 1987).

Comment 3: The Coalition argues that AHA's claimed customs duties were insufficient in that AHA claimed duty allowances that it is not entitled to by law. The Coalition would have the Department calculate the duty to be deducted from U.S. price based upon the Coalition's interpretation of Customs laws.

AHA argues that the Department should adjust for customs duties that were actually paid.

Department's Position: At verification, we determined that the respondent correctly reported the amount of duties deposited with the Customs Service for entries of the subject merchandise. We did not see that the duties deposited were the final duties paid. We deducted the duties reported by respondent from the U.S. price as the best information available in the absence of information regarding the actual final duties paid on the subject merchandise.

Comment 4: The Coalition argues that no deduction should be made from the foreign market value for expenses related to AHA's after-sale service plan. The service plan is in no way related to the sale of the subject merchandise.

AHA argues that the service plan, like a warranty, is part of the total package purchased by a customer and, therefore, is directly related to the sales under consideration.

Department's Position: We agree with respondent and made a deduction from the foreign market value for certain Canadian sales. The program in question pre-dates the period of investigation. Customers who were eligible for the program were aware of it at the time of the sale, making it part of the total package purchased by the customer. The expenses associated with the program are, therefore, directly related to the sales to those customers who were eligible for the program.

Comment 5: The Coalition argues that no deduction should be made from the foreign market value for expenses related to pre-delivery inspection expenses. In claiming the deduction for pre-shipment inspection, AHA is simply attempting to deduct from the foreign market value a portion of its factory overhead costs incurred in producing the merchandise.

AHA argues that pre-delivery inspection expenses should be deducted from certain home market sales.

Department's Position: We agree with respondent and deducted the expenses associated with pre-delivery inspection from the foreign market value for certain Canadian sales. AHA incurred these expenses for sales to retail customers who picked-up the vehicles from AHA's plant. These expenses are directly related to the sales and are, therefore, a proper circumstance of sale adjustment.

Comment 6: The Coalition argues that the Department should disallow the rebates reported by AHA for its home market sales. AHA has not justified the after-sale rebates as a normal business practice in the limousine industry. The requirement that the rebates should be within the normal business practice of the industry is especially important with respect to any rebates that were granted after the filing of the antidumping duty petition in this case.

AHA argues that the antidumping statute requires that prices be adjusted to reflect rebates.

Department's Position: We agree with the respondent. The Department normally adjusts for post-sale rebates without requiring the respondent to show that the rebates are "normal business practice in the industry." The Department examined the reported rebates at verification. The rebates made after the filing of the petition in this case were consistent with those made before the filing date. The Department concludes, therefore, that the rebates made after the filing date were not made in an attempt to circumvent the antidumping investigation.

Comment 7: The Coalition argues that the Department improperly deducted certain third party payments made under AHA's "distributor protection program." These payments were made to parties that were not involved in the sales of the merchandise in question and can therefore not be characterized as "directly related" to those sales.

AHA argues that the Department properly adjusted for third party payments made under the "distributor protection program."

Department's Position: We find that the payments made to third parties under the "distributor protection program" are directly related to the sales under consideration. Therefore, we have treated these expenses as circumstance of sale adjustments. Expenses that are directly related to the sales under consideration must be adjusted for under section 353.56 of the Department's regulations, regardless of whether the payments were made to parties that were involved in selling the product to the customer.

Comment 8: The Coalition argues that the Department should not adjust for the "extended warrantee" as a difference in the circumstance of sale. AHA is attempting to claim an adjustment to reflect different costs of production for otherwise identical merchandise.

AHA reports that Ford Motor Co. of Canada offers an "extended warrantee" on Lincoln Town Cars, which is honored for AHA limousines registered and sold in Canada, but not for AHA limousines registered and sold in the United States. AHA contends that the Department should take into account this different circumstance of sale in making the comparison of foreign market value to U.S. price. AHA provides a number of ways of measuring the value and cost of the "extended warrantee" for purposes of adjusting the foreign market value.

Department's Position: The Department did not adjust for the "extended warrantee" because, despite the Department's request at verification, AHA was unable to provide documentary evidence to show that the

"extended warrantee" was as described by AHA in its submissions.

Comment 9: AHA requests that the Department adjust for changes in exchange rates under section 353.60 of the Department's regulations. AHA argued that the price list in effect for the early part of the period of investigation was drawn up in November 1988. After a decline in the value of the U.S. dollar in the last quarter of 1988, the company provided rebates and free options to its home market customers. AHA argues that these rebates were designed to absorb the price differences resulting from this sustained change in the exchange rate. Therefore, AHA requests that the Department convert foreign market value to U.S. dollars for the first quarter of 1989 using the exchange rate for the last quarter of 1988.

The Coalition disagrees and argues that the Department should not adjust for exchange rate changes.

Department's Position: We saw no evidence that the various rebates offered by AHA in Canada were in any way tied to exchange rate changes. In its questionnaire response and at verification, AHA did not demonstrate nor even allege that the rebates it provided to its home market customers were given to offset exchange rate changes. In fact, our verification showed that these rebates were determined on a sale-by-sale basis, that they varied widely from sale to sale, and that, although they were given for a wide variety of reasons, they were never given specifically to offset exchange rate changes. Finally, we have found no relation between the percentage change in prices caused by these rebates and the percentage change in exchange rates during the last quarter of 1988. Based on these facts, the Department has not made a special exchange rate adjustment for AHA's home market sales in the first quarter of 1989.

Comment 10: The Coalition argues that AHA's limousines are Canadian products and are within the scope of the investigation. AHA's limousines, regardless of whether the chassis is of U.S.-origin, undergo "substantial transformation" not a mere "alteration," and are therefore within the "class or kind" of foreign merchandise subject to the instant investigation.

AHA argues that AHA's Lincoln Town Car and Cadillac limousines built with U.S.-produced chassis are outside the scope of the investigation because they are "non-Canadian" in origin. The alteration process performed by AHA is relatively unsophisticated. Further, the value of the U.S.-origin components constitutes more than half the value of the Lincoln and Cadillac limousines exported to the United States.

Department's Position: We agree with the Coalition. The Department considers limousine conversion to be a sophisticated process which transforms the base vehicle into a new and different article of merchandise. The conversion process typically more than doubles the value of the base vehicle. We therefore consider AHA's limousines to be Canadian merchandise subject to this investigation.

Comment 11: The Coalition claims that two or more limousines reported as sold in AHA's response to the Department's questionnaire are now for sale as new vehicles. The Coalition asserts that this fact suggests that AHA's response is replete with inaccurate data, and that the Department should reject AHA's data make its determination based on the best information available.

AHA argues that one of the two vehicles referred to by the Coalition was a completed sale but that the cause of the confusion was an incorrectly reported vehicle identification number. The second vehicle was one of three vehicles reported as sales to the Department that were subsequently reversed. AHA reported that such reversals sometimes occur in its response to the Department's questionnaire.

Department Position: The Department verified that the four sales in question were, in fact, *bona fide* sales made by the respondent during the period of investigation. The Coalition refers to two sales and the respondent refers to three sales that were reversed. However, the assertions made by both parties are unverified. We have, therefore, included the sales in our analysis.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of limousines, as defined in the "Scope of Investigation" section of this notice, that are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of limousines exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
A.H.A Manufacturing Limited	5.78
All Others	5.78

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC will determine within 45 days of the publication of this notice whether these imports materially injure, or threaten material injury to, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist with respect to the product under investigation, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on the subject merchandise from Canada entered, or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. section 1673d(d)).

Dated: March 19, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-6760 Filed 3-23-90; 8:45 am]

BILLING CODE 3510-DS-M

[Appl. No. 89-00018]

Export Trade Certificate of Review; Outdoor Power Equipment Institute, Inc.

ACTION: Notice of Insurance of an Export Trade Certificate of Review, Application No. 89-00018.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Outdoor Power Equipment Institute, Inc. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs (OETCA) is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. OETCA has received comments regarding OPEI's application for an Export Trade Certificate of Review and has taken them into consideration in its deliberations concerning the application. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Members (in addition to the applicant)

See Appendix A.

Export Trade

1. Products and Services

Products of the outdoor power equipment industry intended for use in lawn, garden, and turf care maintenance, including walk-behind mowers, riding rotary turf mowers, walk-behind snowthrowers, walk-behind rotary tillers, lawn tractors, yard tractors, garden tractors, riding mowers, flexible line trimmers, edger/trimmers, shredder/grinders, leaf blowers, lawn vacuums, sprayers, power rakes, thatchers, chippers, stump cutters, log splitters, commercial turf care equipment, and attachments for the above riding equipment.

2. Services

Engineering, design, and related services related to Products and to turn-key contracts that incorporate Products; servicing of Products; and training with respect to the safe use and maintenance of Products.

3. Technology Rights

Patents, trademarks, service marks, copyrights, trade secrets, know-how, and semiconductor mask works.

4. Export Trade Facilitation Services (as they relate to the export of Products, Services, and Technology Rights)

Consulting, international market research, marketing and trade promotion, trade show participation, insurance, legal assistance, testing and certification of products, transportation, trade documentation and freight forwarding, communication and processing of export orders, warehousing, foreign exchange, financing, and taking title to goods.

Export Markets

The Export Markets include all parts of the world except (1) the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) and (2) Canada.

Export Trade Activities and Methods of Operation

1. OPEI and/or one or more of its Members may:

a. Engage in joint bidding or other joint selling arrangements for Proudcts and/or Services in Export Markets and allocate sales resulting from such arrangements;

b. Establish export prices for sales of Products and/or Services by the Members in Export Markets, with each Member being free to deviate from such prices by whatever amount it sees fit;

c. Discuss and reach agreements relating to interface specifications and engineering requirements demanded by specific potential customers for Products for Export Markets;

d. With respect to Products and/or Services, refuse to quote prices for, or to market or sell in, Export Markets;

e. Provide and/or jointly negotiate for and purchase from suppliers Export Trade Facilitation Services for Members;

f. Solicit non-member Suppliers to sell their Products and/or Services or offer their Export Trade Facilitation Services through the certificated activities of OPEI and/or its Members;

g. Coordinate with respect to the installation and servicing of Products in Export Markets, including the establishment of joint warranty, service, and training centers in such markets;

h. License associated Technology Rights in conjunction with the sale of Products, but in all instances the terms of such licenses shall be determined solely by negotiations between the licensor Member and the export customer without coordination with OPEI or any other Member;

i. Engage in joint promotional activities, such as advertising and trade shows, aimed at developing existing or new Export Markets;

j. Bring together from time to time groups of Members to plan and discuss how to fulfill the technical product, service, and/or technology requirements of specific export customers or Export Markets; and

k. Operate and establish jointly owned subsidiaries or other joint venture entities, owned exclusively by OPEI and/or its Members, to export Products to Export Markets; operate warranty, service, and training centers in Export Markets; and to provide Export Trade Facilitation Services to Members.

2. OPEI and/or its Members may enter into agreements wherein OPEI and/or one or more Members agree to act in certain countries or Export Markets as the Members' exclusive or nonexclusive Export Intermediary for Products and/or Services in that country or Export Market. In such agreements, (i) OPEI or the Member(s) acting as an exclusive Export Intermediary may agree not to represent any other Supplier for sale in the relevant country or Export Market, and (ii) Members may agree that they will export for sale in the relevant country or Export Market only through OPEI or the Member(s) acting as exclusive Export Intermediary, and that they will not export independently to the relevant country or market, either directly or through any other Export Intermediary. OPEI and/or any Members when acting as an exclusive Export Intermediary shall not unreasonably refuse to supply its Services on non-discriminatory terms to those Members that are parties to the exclusive arrangements and which request such Services.

3. OPEI and/or its Members may exchange and discuss the following types of information:

a. Information (other than information about the costs, output, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, or United States business plans, strategies or methods) that is already generally available to the trade or public;

b. Information about sales and marketing efforts for Export Markets; activities and opportunities for sales of Products and Services in Export Markets; selling strategies for Export Markets; pricing in Export Markets; projected demands in Export Markets; customary terms of sale in Export Markets; the types of products available from competitors for sale in particular Export Markets, and the prices for such products; and customer specifications for Products in Export Markets;

c. Information about the export prices, quality, quantity, source, ability to supply Products in quantities sufficient to meet a sales opportunity, and delivery dates of Products available from Members for export, provided however, that exchanges of information and discussions as to Product quantity, source, ability to supply Products in quantities sufficient to meet a sales opportunity, and delivery dates must be on a transaction-by-transaction basis only and involve only those Members who are participating or have a genuine interest in participating in such transaction;

d. Information about the terms and conditions of contracts for sales in Export Markets to be considered and/or bid on by OPEI and its Members;

e. Information about joint bidding, selling, or servicing arrangements for Export Markets and allocation of sales resulting from such arrangements among the Members;

f. Information about expenses specific to exporting to and within Export Markets, including without limitation transportation, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties, and taxes;

g. Information about U.S. and foreign legislation and regulations affecting sales in Export Markets; and

h. Information about OPEI's or its Members' export operations, including without limitation sales and distribution networks established by OPEI or its Members in Export Markets, and prior export sales by Members (including export price information); and

i. Information related to the standardization, testing, and certification of Products and Services for purposes of making bona fide recommendations to foreign governmental or private standard-setting organizations that are in the process of formulating standards for those Products or Services; and

j. Information related to the means for complying with existing technical standards.

4. OPEI may provide its Members or other Suppliers the benefit of any Export Trade Facilitation Services to facilitate the export of Products to Export Markets. This may be accomplished by OPEI itself, or by agreement with Members or other parties.

5. OPEI and/or its Members may meet to engage in the activities described in paragraphs one through four above.

6. OPEI and/or its Members may make available to non-Members the Export Trade Facilitation Services relating to testing and certification of Products. OPEI and/or its Members may refuse to provide other Export Trade Facilitation Services, or participation in the other activities described in paragraphs one through five above, to non-members.

7. OPEI and/or its Members may forward to the appropriate individual Member requests for information received from a foreign government or its agent (including private preshipment inspection firms) concerning that Member's domestic or export activities (including prices and/or costs), and if such individual Member elects to respond, it shall respond directly to the requesting foreign government or its agent with respect to such information.

Definitions

1. An "*Export Intermediary*" means a person who acts as a distributor, representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. "*Members*" means those regular member companies of OPEI listed in Appendix A, which is incorporated herein by reference, and those member companies of OPEI subsequently incorported in the Certificate pursuant to the amendment procedures set forth below.

3. "*Supplier*" means a person who producers, provides, or sells a Product, Service, Technology Right, and or Export Trade Facilitation Service, whether a Member or non-Member.

Abbreviated Amendment Procedure

New OPEI Members, including current OPEI members not listed in Appendix A, may be incorporated in the Certificate through an abbreviated amendment procedure. An abbreviated amendment shall consist of a written notification to the Secretary of Commerce and the Attorney General identifying the OPEI members that desire to become a Member under the Certificate pursuant to the abbreviated amendment procedure, and certifying for each such OPEI member so identified its sales of individual Products and Services in its prior fiscal year. Notice of the members so identified shall be published in the **Federal Register.** However, OPEI may withdraw one or more individual members from the application for the abbreviated amendment. If 30 days or more following publication in the **Federal Register,** The Secretary of Commerce, with the concurrence of the Attorney General, determines that the incorporation in the Certificate of these members through the abbreviated amendment procedure is consistent with the standards of the Act, the Secretary of Commerce shall amend the Certificate of Review to incorporate such members, effective as of the date on which the application for amendment is deemed submitted. If the Secretary of Commerce does not within 60 days of publication in the **Federal Register** so amend the Certificate of Review, such amendment must be sought through the nonabbreviated amendment procedure.

Dated: March 19, 1990.

Douglas J. Aller,

Director, Office of Export Trading Company Affairs.

Appendix A

American Yard Products, Augusta, GA; Atlas Power Equipment, Harvard, IL; Bunton Company, Louisville, KY; John Deere Horicon Works, Horicon, IL; Dixon Industries, Inc., Coffeyville, KS; Engineering Products Company, Inc., Waukesha, WI; Excel Industries, Inc., Hesston, KS; Exmark Manufacturing Company, Inc., Beatrice, NE; E–Z Rake, Inc., Lebanon, IN; Falls Products Inc., Geona, IL; Garden Way, Inc., Troy, NY; Garden Way, Inc./Port Washington, Troy, NY; Hoffco Inc., Richmond, IN; Homelite Division of Textron, Charlotte, NC; Honda Power Equipment Manufacturing, Inc. Swepsonville, NC; Howard Price Turf Equipment, Chesterfield, MO; Ingersoll Equipment Company, Inc., Winnecone, WI; Kut-Kwick Corporation, Brunswick, GA; Lambert Corporation, Ansonia, OH; Lawn-Boy Inc., A subsidiary of OMC, Plymouth, WI; Maxim Manufacturing Corporation, Sebastopol, MS; Merry Tiller Inc., Birmingham, AL; MTD Products Inc., Cleveland, OH; The Murray Ohio Manufacturing Company, Brentwood, TN; NOMA Outdoor Product, Inc., Jackson, TN; Ransomes, Inc., Johnson Creek, WI; The Roto-Hoe Company, Newbury, OH; Sarlo Power Mowers, Inc.; Fort Myers, FL; Scag Power Equipment, Inc., Mayville, WI; Simplicity Manufacturing, Inc., Port Washington, WI; Snapper Power Equipment, McDonough, GA; Solo Incorporated, Newport

News, VA; Southland Mower Company, Selma AL; Tornado Products, Inc., Germantown, WI; The Toro Company, Minneapolis, MN; Toro Wheel Horse, South Bend, IN; Trailmate, Inc., Sarasota, FL; Wheeler Manufacturing Company, Harvard, IL; and Yazoo Manufacturing Company, Inc., Jackson, MS.

[FR Doc. 90-6755 Filed 3-23-90; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of a Request for Bilateral Textile Consultations With the Government of Fiji

March 20, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended: Sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On February 28, 1990, under the terms of section 204 of the Agricultural Act of 1956, as amended, the Government of the United States requested consulations with the Government of Fiji regarding cotton and man-made fiber nightwear and gowns in Categories 351/651, produced or manufactured in Fiji.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Fiji, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in Fiji and exported during the twelve-month period which began on February 28, 1990 and extends through February 27, 1991, of not less than 75,010 dozen.

A summary market statement concerning these categories follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of categories 351/651, or to comment on domestic production or availability of products included in the categories, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230, Attn: Public Comments.

Because the exact timing of the consulations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(l) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning categories 351/651. Should such a solution be reached in consultations with the Government of Fiji, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRECTION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Fiji—Market Statement for Cotton and Man-made Fiber Pajamas and Other Nightwear Category 351/651

February 1990

Import Situation and Conclusion

U.S. imports of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear (Category 351/651) from Fiji reached 75,010 dozen during the year ending November 1989, more than five times the 14,382 dozen imported a year earlier. During the first eleven months of 1989, imports of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear (Category 351/651) from Fiji reached 72,234 dozen, five times the amount imported in the first eleven months of 1988 and over four times the total amount imported in calendar year 1988. There were no shipments of Category 351/651 from Fiji in 1978. Imports from Fiji were 17,158 dozen in 1988.

The sharp and substantial increase in Category 351/651 imports from Fiji is causing disruption in the U.S. market for men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear.

U.S. Production and Market Share

U.S. production of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear (Category 351/651) declined from 19,244,000 dozen in 1987 to 18,453,000 dozen in 1988, a decline of four percent. During the first six months of 1989, production of Category 351/651 dropped to 7,863,000 dozen, 17 percent below the 9,521,000 dozen produced in the same period of 1988. The domestic manufacturers' share of the men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear market dropped from 78 percent in 1987 to 76 percent in 1988. The domestic manufacturers' share dropped to 74 percent during the first six months of 1989.

U.S. Imports and Import Penetration

U.S. imports of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear (Category 351/651) increased eight percent in 1988, increasing from 5,360,000 dozen in 1987 to 5,770,000 dozen in 1988. Imports accelerated in 1989, increasing 26 percent in the first eleven months of 1989 over the same period in 1988. The ratio of imports to domestic production increased three percentage points in 1988, increasing from 28 percent in 1987 to 31 percent in 1988. The ratio increased another five percentage points in the first half of 1989, reaching 36 percent.

Duty-Paid Value and U.S. Producers' Price

Approximately 85 percent of Category 351/651 imports from Fiji during the first eleven months of 1989 entered under HTSUSA numbers 6108.31.0010—women's cotton knit nightdresses and pajamas, and 6208.22.0000—women's and girls' man-made fiber woven nightdresses and pajamas. These garments entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable garments.

[FR Doc. 90-6756 Filed 3-23-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Prepare Environmental Impact Statement for Proposed Joint Use, Scott AFB, IL

The United States Air Force intends to prepare an Environmental Impact Statement (EIS) on a proposal to the Air Force by the State of Illinois for joint use of Scott AFB.

The proposal for joint use of Scott AFB consists of construction of a terminal and 10,000 foot parallel runway and associated facilities and taxiways. A taxiway connector across Silver Creek will also be necessary. Separation between the runway centerline of the existing base runway and the proposed construction would be 7,000 feet. The existing runway would be extended to 8,000 feet. In addition, a parallel taxiway would be constructed west of the existing Runway 14/32. Terminal facilities for passenger and cargo service would be constructed northeast of the new runway adjacent to Interstate 64. A new air traffic control tower would be constructed to service both runways. Property acquisition would be required to construct the new runway and terminal facilities, acquire the clear zones at the end of existing Runway 14/32 and assure compatible land use around the joint-use facility. Ground access would be provided by constructing interchanges to Interstate 64 and/or Illinois Route 4. Perimeter roads and other airport service roads will also be required.

In addition to construction of new airport facilities, Scott AFB facilities impacted by joint use activities will be replaced. The major complex expected to be affected is the Cardinal Creek housing area, with 1,064 units. Other facilities also needing replacement include a chapel, BX shoppette/gas station, navigational aids, roads, utilities, etc. While not DoD-owned, two schools located adjacent to Cardinal Creek housing must be replaced.

The alternatives expected to be studied include (1) no action and (2) construction of the runway at 3,750 feet and (3) at 6,000 feet separation between runway centerlines.

Because of its airport responsibilities, the Air Force has requested that the Federal Aviation Administration be a cooperating agency, as well as the Illinois Department of Transportation/Division of Aeronautics (the action proponent) and St Clair County, Illinois (the airport sponsor). The Corps of Engineers, St Louis District has been invited to be a cooperating agency because of anticipated wetlands impacts.

In developing its proposal, the State of Illinois prepared an environmental assessment (EA) of the action. The Air Force will evaluate the data in the EA for possible use in this EIS. The Air Force will conduct scoping meetings to determine the nature, scope, and extent of the issues and concerns that should be addressed in the EIS. Notice of the time and place of the planned scoping meetings will be made available to public officials and announced in the news media in the areas where the meetings will be held.

To assure the Air Force will have sufficient time to consider public inputs on issues to be included in the development of the EIS, comments should be forwarded to the addressee listed below by May 11, 1990.

For further information concerning this Environmental Impact Statement, contact Ms. Pat Calliott, Headquarters MAC/DEVP, Scott AFB, Illinois 62225-5001.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-6726 Filed 3-23-90; 8:45 am]

BILLING CODE 3910-01-M

Intent To Prepare an Environmental Impact Statement on the Proposed Electronic Combat Test Capability Program at the Utah Test and Training Range; Withdrawal of Proposal

The Air Force announced in the **Federal Register** on October 7, 1988 (53 FR 39498) its intent to prepare an Environmental Impact Statement (EIS) on a proposal to develop an Electronic Combat Test Capability at the Utah Test and Training Range, Utah. Due to funding considerations and budgetary realities, the Air Force is withdrawing its proposal and is terminating the environmental analysis of the proposal.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-6727 Filed 3-23-90; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board Meeting

March 22, 1990.

The USAF Scientific Advisory Board Munition Systems Division Advisory Group will meet on 9 Apr 90 from 8 a.m. to 5 p.m., in the Pentagon, Washington, DC.

The purpose of this meeting is to conduct a technical assessment of the reliability and producibility of the AMRAAM missile, in support of a Defense Acquisition Board (DAB) Committee review of AMRAAM. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-6895 Filed 3-23-90; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before April 25, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to George P. Sotos, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: George P. Sotos, (202) 732-2174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: March 20, 1990.

George P. Sotos,

Acting Director for Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: Revision.
Title: Application for the Drug Prevention Program of the Fund for the Improvement of Postsecondary Education.
Frequency: Annually.
Affected Public: Institutions of higher education; Nonprofit organizations.
Reporting Burden:
Responses: 800.
Burden Hours: 12,800.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by institutions of higher education and non-profit organizations to apply for funding under the Drug Prevention Program. The Department uses the information to make grant awards.

Office of Postsecondary Education.

Type of Review: New.
Title: Reconciliation of Special Payoff Program Collection.
Frequency: One Time.
Affected Public: State or local governments; Non-profit institutions.
Reporting Burden:
Responses: 25.
Burden Hours: 125.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form is used by state agencies to reconcile collections received under the Special Payoff Program. The Department will use the information to reconcile amounts due the agency for collections received under this program.

Office of Postsecondary Education

Type of Review: New.
Title: Guarantee Agency Monthly Claims and Collections Report—Rehabilitated Loans.
Frequency: Monthly.
Affected Public: State or local governments; Non-profit institutions.
Reporting Burden:
Responses: 660.
Burden Hours: 1980.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form is used by state agencies to request payments of reinsurance claims paid on rehabilitated loans. The ED Form 1189A must be used in conjunction with ED Form 1189, the Guarantee Agency Monthly Claims and Collections Report.

Office of Elementary and Secondary Education

Type of Review: Revision.
Title: State Performance Report—Chapter 1 Migrant Education Program.
Frequency: Annually.
Affected Public: State or local governments.
Reporting Burden:
Responses: 2156.
Burden Hours: 11,086.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: State agencies must submit state plans under the Chapter 1 Migrant Education Program as amended. The Department uses the information to determine compliance with the Act and to make grant awards.

[FR Doc. 90-6716 Filed 3-23-90; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistant Award; Intent To Award Grant Agreement To East-West Center

AGENCY: U.S. Department of Energy (DOE); San Francisco Operation Office, Conservation and Renewable Energy Division. Notice of intent to renew a Financial Assistant Award to the East-West Center on a sole source basis.

ACTION: Pursuant to 10 CFR 600.7(b), the U.S. DOE announces that it is restricting eligibility for award of DE-FG03-89FE61811 to the East-West Center, Resource Systems Institute, to conduct a study and workshops on the potential for thermal coal and clean coal technology export in the Asia-Pacific Region.

SUMMARY: The study will finalize improvements to the Coal Trade Model and will transfer to the Office of Fossil Energy the software, with documentation and databases on country-specific coal quality, transport distances and costs. Project staff will be available to provide training in the uses and interpretation of the model's results to the Office of Fossil Energy. Additional research activities will include assisting US DOE and coal industry representatives with trade missions to Asia. In addition, the East-West Center will organize a workshop of experts to identify future energy requirements and analyze the prospects for thermal coal in the power sector and in other industrial applications, such as cement plants. The workshop, which will be coordinated with the trade missions, will provide a valuable exchange of views and information and will strengthen ties between government agencies and power companies in Asia and their U.S. counterparts. The proceedings from the workshop will be disseminated to U.S. and Asian coal/electricity planners analysts.

This noncompetitve financial assistance award is necessary to enhance the public benefits by increasing the cooperative information exchange among key DOE and industry officials from the U.S. and their counterparts in Asia-Pacific countries. There is no known other entity which is conducting or is planning to conduct a study of such magnitude and detail on thermal coal trade and clean coal technology requirements in the Asia-Pacific region.

A formal market survey was not instituted for this procurement action. Through canvassing both government and industry technical personnel knowledgeable in the field, the East-West Center, Resource Systems Institute, was deemed to be the only known source for this type of work in the area of thermal coal trade and clean coal technology requirements in the Asia-Pacific region. The linear programming model to be utilized in this study is proprietary to the East-West Center.

FOR FURTHER INFORMATION CONTACT: Terrie Brown, U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

Issued in Oakland, California on March 13, 1990.

Aundra Richards,

Acting Director, Contracts Management Division.

[FR Doc. 90-6786 Filed 3-23-90; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*) The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period (10) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE desk officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION CONTACT: Jay Casselberry, Office of Statistical Standards (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration.
2. EIA-457A/G.
3. 1905-0092.
4. Residential Energy Consumption Survey.
5. Revision.
6. Triennially reporting.
7. Mandatory.
8. Individuals or households, State or local governments, Businesses or other for profit, Federal agencies or employees, Small businesses or organizations.
9. 8330 respondents.
10. 2777 responses.
11. 2.125 hours per response.
12. 5900 hours (total).
13. EIA-457A/G collect comprehensive, national and regional data on the consumption of energy in the residential sector. Data are used for analysis and forecasting. Housing and demographic characteristics data are collected via personal interviews, and consumption and expenditure billing data are collection from the energy suppliers. Rental agencys are contacted by telephone to check on fuels used in rented apartments.

Statutory Authority: Section 5(a), 5(b), 13(b), and 52, Public Law 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC., March 21, 1990.

Yvonne Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90-6788 Filed 3-23-90; 8:45 am]

BILLING CODE 6450-01-M

Form EIA-28, "Financial Reporting System"

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request for comments on the proposed extension of the Form EIA-28, "Financial Reporting System."

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. 3501 *et seq.*), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed extension to the Form EIA-28, "Financial Reporting System."

DATES: Written Comments must be submitted within 30 days of the publication of this notice. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Gregory P. Filas, Energy Information Administration, EI-641, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, telephone 202-586-1347.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORM AND INSTRUCTIONS: Requests for additional information or copies of the form and instructions should be directed to Gregory P. Filas at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

This survey is required under section 205(h) of the Department of Energy Organization Act, Public Law 95-91. To meet this responsibility, the Form EIA-28 is used to obtain data from major energy producers. The form gathers data on financial and operating information disaggregated by energy lines of business and functional segments. Utilizing these data, EIA produces the annual report, *Performance Profiles of Major Energy Producers.* These data are also used to analyze financial aspects of taxation, energy resource development, and impacts of changes in world oil prices.

II. Current Actions

The EIA is proposing an extension of the Form EIA–28 for 3 years. The currently approved OMB expiration date is December 31, 1990.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extension. The following general guidelines are provided to assist in the preparation of responses.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for this collection is estimated to average 1043 hours per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completely and reviewing the collection of information, do you estimate it will require you to complete and submit the required form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the means of collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the information contained in the Financial Reporting System.

Comments submitted in response to this notice will be summarized and/or included in the requests for OMB approval of the form; they also will become a matter of public record.

Statutory Authority: Sections 5(a), 5(b), 13(b), and 52 of Public Law 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b) and 790a.

Issued in Washington, DC, March 21, 1990.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90–6789 Filed 3–23–90; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER90–167–000 et al.]

Philadelphia Electric Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

March 16, 1990.

Take notice that the following filings have been made with the Commission:

1. Philadelphia Electric Company

[Docket No. ER90–167–000]

Take notice that on March 14, 1990, Philadelphia Electric Company (PE) tendered for filing additional information, at the request of the Commission's Staff, concerning the proposed charges for certain services made available to Baltimore Gas and Electric Compnay (BG&E) under the terms of an Agreement between PE and BG&E dated January 5, 1990.

PE states that a copy of this amended filing has been sent to BG&E and will be furnished to the Pennsylvania Public Utility Commission and the Maryland Public Service Commission.

Comment date: April 2, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp, Doing Business as Pacific Power & Light Utah Power & Light

[Docket No. ER90–255–000]

Take notice that PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light, on March 14, 1990, tendered for filing, in accordance with § 35.30 of the Commission's Regulations, PacifiCorp's Utah Division (PacifiCorp) Revised Appendix 1 for the state of Idaho and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Idaho (Bonneville's Docket No. 8–A3–8904), and reconciliations of PacifiCorp's Revised Appendix 1 to Bonneville's Determination of ASC dated February 22, 1990. The Revised Appendix calculates the ASC for the state of Idaho applicable to the exchange of power between Bonneville and PacifiCorp.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate schedule to become effective February 1, 1989, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Idaho Public Utilities Commission, and Bonneville's Direct Service Industrial Customers.

Comment date: April 2, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–6713 Filed 3–23–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EP88–171–001 et al.]

Tennessee Gas Pipeline Co. et al.; Niagara Import Point Project; Availability of Draft Environmental Impact Statement

March 16, 1990.

In the matter of: Tennessee Gas Pipeline Company, Great Lakes Gas Transmission Company, Algonquin Gas Transmission Company, CNG Transmission Corporation and Texas Eastern Transmission Corporation, CNG Transmission Corporation, Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporation, and National Fuel Gas Supply Corporation and Penn-York Energy Corporation; Docket Nos. CP88–171–001, CP89–892–000, CP88–167–001, CP88–195–002, CP89–712–000, CP89–711–000, CP89–7–001, CP89–710–000, and CP88–194–001.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC), has made available a draft environmental impact statement (DEIS) on the natural gas pipeline facilities proposed in the above-referenced dockets, and related nonjurisdictional facilities.

The DEIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating

measures, including receipt of necessary permits and approvals, would have limited adverse environmental impact. The DEIS evaluates alternatives to the proposals.

Great Lakes Gas Transmission Company (Great Lakes) proposed in its application, Docket No. CP89–892–000, to construct seventeen 36-inch-diameter pipeline loops for a total length of 459.6 miles within Minnesota (76.8 miles), Wisconsin (42.6 miles) and Michigan (340.2 miles). The facilities are designed to transport up to 417,500 thousand cubic feet per day (Mcfd) of natural gas for TransCanada Limited (TransCanada) between the United States-Canadian border at Noyes, Minnesota back to TransCanada at two points along the United States-Canadian border near Sault Ste. Marie and St. Clair, Michigan. TransCanada requires this increase in transportation volumes primarily to satisfy the market requirements of export customers in the Northeastern United States.

Tennessee Gas Pipeline Company (Tennessee) proposed in its application, Docket No. CP89–171–001, to deliver 50,000 Mcfd to Canadian gas to a power plant in Rhode Island, 20,000 Mcfd to a congeneration facility in Syracuse, New York and 13,900 Mcfd to CNG at Marilla, New York for transport on behalf of a cogeneration facility in Brookview, New York. To deliver this gas, Tennessee would construct 41.9 miles of 30-inch-diameter pipeline loops in New York and Massachusetts, 7,000 hp of compression at an existing compressor in Niagara County, NY, one new metering station at an existing compressor station site, and modifications to two existing metering stations.[1]

National Fuel Gas Supply Corporation and Penn-York Energy Corporation (National Fuel/Penn-York) proposed in their application, Docket No. CP88–194–001, to construct pipeline facilities to transport and deliver up to 161,500 Mcfd of Canadian gas as follows: 125,000 Mcfd to Transco at Leidy, Pennsylvania; 12,000 Mcfd to CNG at Marilla, New York, for transportation on behalf of a cogeneration facility in Oswego, New York; 12,000 Mcfd for delivery by National Fuel to a cogeneration facility in Tonawanda, New York; and 12,500 Mcfd for National Fuel's own system supply. To deliver this gas, National Fuel/Penn-York would construct 2.5 miles of 24-inch-diameter pipeline, 8,600 hp of compression at a new compressor station in Concord, New York, and 2,600 hp of additional compression at the existing Ellisburg Station.

CNG Transmission Corporation (CNG) and Texas Eastern Transmission Corporation (Texas Eastern) proposed in their application, Docket No. CP88–195–002, to construct pipeline facilities to transport and deliver 101,000 Mcfd of Canadian gas to Texas Eastern and Transco in Leidy, Pennsylvania. To deliver this gas, CNG/Texas Eastern would construct 0.4 miles of 20-inch-diameter replacement pipeline, and 2,200 hp of additional compression at the State Line Compressor Station, two new metering facilities at existing compressor and metering stations and modification to an existing metering facility.

Transcontinental Gas Pipe Line Corporation (Transco) proposed in their applications, CP89–7–001 and CP89–710–000, to receive 125,000 Mcfd of Canadian gas from National Fuel/Penn-York at Leidy, Pennsylvania for the expansion of its existing markets and 72,000 Mcfd from CNG/Texas Eastern at Leidy, Pennsylvania for redelivery as follows: 48,817 Mcfd to Algonquin at Centerville, New Jersey and 23,183 Mcfd to North Jersey Energy Associates for a cogeneration facility in Sayreville, New Jersey. To deliver this gas, Transco would construct two 36-inch-diameter pipeline loops totaling 8.4 miles, additional 12,600 hp of compression at an existing compressor station in Luzerne, Pennsylvania and 12,000 hp of compression at a proposed compressor station in Mercer County, New Jersey.

CNG proposed in its application, Docket No. CP89–712–000 to receive at Marilla, New York 13,900 Mcfd of Canadian gas from Tennessee for redelivery to a cogeneration facility in Brookview, New York and 12,000 Mcfd from National Fuel/Penn-York for redelivery to a cogeneration facility in Oswego, New York. To deliver this gas, CNG would construct 2.7 miles of new 30-inch pipeline, 3,600 hp of compression at two existing compressor stations and a modification to a metering facility.

Algonquin Gas Transmission Company (Algonquin) proposed in its application, Docket No. CP88–187–001, to receive 38,817 Mcfd of Canadian gas from Transco at Centerville, New Jersey and 14,000 Mcfd of domestic gas supplies from Texas Eastern in Lambertville, New Jersey for redelivery to a cogeneration facility in Bellingham, Massachusetts. To deliver this gas, Algonquin would construct 11.4 miles of 12-, 16-, and 36-inch diameter pipeline loops, 12.6 miles of 10-, 20-, and 24-inch diameter replacement pipeline and a new metering station.

Texas Eastern proposed in its application, Docket No. CP89–711–000, to receive from CNG/Texas Eastern at Leidy, Pennsylvania 29,000 Mcfd of Canadian gas for its own system supply. To deliver this gas, Texas Eastern would construct 5.0 miles of a 24-inch diameter pipeline loop.

Comment Procedure

A copy of this notice has been distributed to Federal, state, and local agencies, public interest groups, libraries, newspapers, parties in this proceeding, and other interested individuals. Written comments are welcome to help identify significant new issues or concerns related to the proposed action. All comments on specific environmental issues should contain supporting documentation and rationale. Written comments must be filed on or before April 30, 1990, reference Docket No. CP88–171–001, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. A copy of the comments should also be sent to the FERC Project Manager identified below.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the DEIS, a final EIS (FEIS) will then be published by the staff and distributed. The FEIS will contain the staff's responses to timely comments received on the DEIS.

The DEIS has been placed in the public files of the FERC and is available for public inspection in the FERC's Division of Public Information, Room 2200, 825 North Capitol Street NE., Washington, DC 20426. Copies have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties in this proceeding. Any person may file a motion to intervene on the basis of the Commission staff's DEIS (18 CFR 380.10(a) and 385.214).

Copies of the DEIS are available from Mr. Kurt Flynn, Project Manager, Environmental Policy and Project Analysis Branch, Office of Pipeline and Producer Regulation, Room 7312, 825 North Capitol Street NE., Washington, DC 20426, or call (202) 357–8870 or FTS 357–8870.

Lois D. Cashell,

Secretary.

[FR Doc. 90–6715 Filed 3–23–90; 8:45 am]

BILLING CODE 6717-01-M

[1] Approximately 17.1 miles of the pipeline loop along Tennessee's Niagara Spur in Erie County, New York would be jointly owned by Tennessee, National Fuel/Penn-York and CNG/Texas Eastern.

[Docket No. TQ90-6-24-000]

Equitrans, Inc.; Proposed Change in FERC Gas Tariff

March 20, 1990.

Take notice that Equitrans, Inc. (Equitrans) on March 19, 1990, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective March 20, 1990:

Third Revised Substitute Fourteenth Revised Sheet No. 10
Fourth Revised Sixth Revised Sheet No. 34

Equitrans is exercising its option to file an Out-of-Cycle Purchased Gas Cost Adjustment (PGA) to recover standby costs under Texas Eastern Transmission Corporation's (TETCO) Rate Schedule CD-1. Equitrans received authorization to track these costs from the Commission's Order in Equitrans, Inc., 48 FERC ¶ 61,278 (1989).

This filing reflects a decrease in Equitrans's PLS commodity rate of $0.1239 per dekatherm (Dth). Its Demand 1 and Demand 2 rates for Rate Schedule PLS remains the same as filed in Equitrans' quarterly PGA in Docket No. TQ90-5-24-001.

The reasons for the decrease in gas cost are the inclusion of spot market purchases for the month of March, 1990 and the election of standby service.

Pursuant to § 154.51 of the Commission's regulations, Equitrans requests that the Commission grant any waivers necessary to permit the tariff sheets contained herein to become effective on March 20, 1990.

Equitrans states that a copy of its filing has been served upon its purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-6709 Filed 3-23-90; 8:45 am]

BILLING CODE 6712-01-M

[Docket Nos. TQ90-3-55-000]

Questar Pipeline Co.; Rate Change

March 20, 1990.

Take notice that on March 16, 1990, Questar Pipeline Company tendered for filing and acceptance Third Revised Sheet No. 12 to Original Volume No. 1 of its FERC Gas Tariff to be effective immediately.

Questar Pipeline states that the purpose of this filing is to adjust the purchased gas cost under its sale-for-resale Rate Schedule CD-1 effective immediately by means of an out-of-cycle PGA filing.

Questar Pipeline states that Third Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.56190/Dth which is $0.30659 higher than the currently effective rate of $2.25531/Dth. The demand base cost of purchased gas, as adjusted, is decreased by $0.00060/Dth from $0.00601/Dth to $0.00541/Dth.

Quester Pipeline states that is has provided a copy of the filing to Mountain Fuel Supply Company and interested state public service commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before March 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-6710 Filed 3-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-38-001]

Ringwood Gathering Co.; Proposed Changes in FERC Gas Tariff

March 20, 1990.

Take notice that on March 15, 1990, Ringwood Gathering Company (Ringwood), 4828 Loop Central Drive, Loop Central Three, Suite 850, Houston, Texas 77081, filed an Original Sheet No. 4C to its FERC Gas Tariff and FERC Form No. 542-PGA pursuant to 18 CFR section 154.308.

Copies of the filing were served upon Ringwood, jurisdictional customers and interested state agencies.

Ringwood's Quarterly PGA filing reflects an estimated $1.5078 per Mcf cost of gas, a current adjustment of zero per Mcf; a cumulative credit adjustment of $.4171 per Mcf; a surcharge adjustment of $.1746 per Mcf and a total sales rate of $2.0544 per Mcf.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-6711 Filed 3-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-6-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 20, 1990.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on March 15, 1990 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Proposed to be Effective November 1, 1989

Third Substitute Seventeenth Revised Sheet No. 50

Proposed to be Effective November 15, 1989

Third Substitute Eighteenth Revised Sheet No. 50

Proposed to be Effective December 1, 1989

Substitute 1st Revised Eighteenth Revised Sheet No. 50

Proposed to be Effective January 1, 1990

Second Substitute Nineteenth Revised Sheet No. 50

Proposed to be Effective February 1, 1990

Second Substitute Twentieth Revised Sheet No. 50

Texas Eastern states that these sheets are being filed pursuant to section 4.F of Texas Eastern's Rate Schedules SS–2 and SS–3 to flow through changes in CNG Transmission Corporation's (CNG) Rate Schedule GSS rates which underline Texas Eastern's Rate Schedules SS–2 and SS–3.

The proposed effective dates of the above tariff sheets are as stated above.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commisisons.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–6712 Filed 3–23–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–91–000]

United Gas Pipe Line Co.; Tariff Filing

March 19, 1990.

Take notice that on March 8, 1990 United Gas Pipe Line Company (United) tendered for filing the following Tariff Sheets as part of its FERC Gas Tariff, Second Revised Volume No. 1:

Second Revised Sheet No. 4L
Original Sheet No. 4L.1
Original Sheet No. 4L.2
Original Sheet No. 4L.3
Original Sheet No. 4L.4
Original Sheet No. 4L.5

United states that this filing is made in order for United to implement a take-or-pay recovery mechanism consistent with the Commission's Order No. 500 series.

The proposed tariff sheet reflects United's absorption of 50 percent of its buy-out and buy-down costs which United has either actually paid or has beome obligated to pay since March 31, 1989 and reflects direct billing of the remaining 50 percent of the buy-out and buy-down costs to its jurisdictional sales customers.

United has requested an effective date of April 1, 1990 for the tariff sheet and is also requesting such waivers as are necessary for the tariff sheet to become effective on such date.

United states that copies of this filing will be served upon all parties listed on the official service list in this proceeding.

Any person desiring to be heard or to protest this filing should file a Motion to Intervene or Protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Regulations. All such motion or protests should be filed on or before March 26, 1990.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene in accordance with the Commission's Regulations. Copies of this filing are on file with the Commission and are also available at United's office in Houston, Texas and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–6704 Filed 3–23–90; 8:45 a.m]

BILLING CODE 6717–01–M

Office of Fossil Energy

Restructuring of Federal/State Cooperative Program; Request for Comments

AGENCY: Office of Fossil Energy, Department of Energy, DOE.

ACTION: Request for comments.

SUMMARY: The Department of Energy's Office of Fossil Energy (DOE/FE) is announcing a request for comments on the restructuring of its Federal/State Cooperative Program.

The planned approach for a new program is presented in the material entitled "New Fossil Energy Federal/State Cooperative Program, Policies and Procedures" located in the Supplemental Information section.

DOE/FE intends that the new program be operational by fiscal year 1991. Hence it is seeking to move expeditiously in the establishment of the program. The public may present their views and comments in writing on this new program at the address given below. In addition, the public is advised that the Federal government will be meeting with State governments this spring to attain their views in finalizing the new Fossil Energy Federal/State Cooperative Program. Comments from the public as entertained and emphasized by the States will receive particular attention.

DATES: Comments must be received by the individual indicated below no later than 4:30 p.m. local time, Washington, DC on April 30, 1990.

CONTACT: Copies of information on the draft strategy and implementation plan may be obtained by writing or calling: Ms. Faith Williams, FE–1, Assistant to the Assistant Secretary, Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6660, (202) 586–5146 (Telex No.)

For further information regarding former programs and general DOE practices, contact: Mr. Keith Frye, Director, Office of Business Operations, Fossil Energy, U.S. Department of Energy, Washington, DC 20545, (301) 353–2098, (301) 353–4106 (Telex No.)

A copy of the draft strategy and implementation will be available for public review at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

New Fossil Energy Federal/State Cooperative Program Policies and Procedures

I. Introduction

The purpose of this document is to set forth the policies and procedures necessary to effect a structured, comprehensive, and cohesive Fossil Energy (FE) Federal/State Cooperative Program which is:

- Consistent with the President's National Energy Strategy and resultant FE missions and objectives; and
- Responsive to the direction and intent of the FY 1990 Interior Appropriations Act, P.L. 101–121.

The spirit of the new program can be taken from President Bush in his Fiscal

Year (FY) 1991 Budget Message to the Congress where he stressed the value of investments in research and development to "enhance our productivity and brighten our future", recognized the appropriateness of non-Federal financial support (e.g., joint ventures or cost-sharing) as a basis for cooperative activities leading to benefits to be achieved in the private sector, and commented that

"* * * in numerous instances, States and localities are moving on their own, with their own funds, to try new and innovative approaches to problem solving. This blossoming of State and local innovation is welcome."

In a similar vein, the Congress has endorsed the importance of a comprehensive new program for Federal/State cooperation in Research and Development (R&D) which is driven by a set of national objectives and Federal priorities and which also assures equitable treatment to individual States or regions.

Accordingly, the FE FY 1991 Congressional Budget Request, in its Overview Section, endorses the concepts of coordinated planning and the mutual leveraging of Federal and State financing in program areas of common interest. It is recognized that State governments may need assistance in becoming aware of the range of FE R&D activities already in progress so as to avoid duplication of effort, and to ensure that the Federal government understands first hand the resources, priorities and potentially available incentives of individual States.

II. Federal/State Planning

There are numerous opportunities to accomplish the coordinated planning necessary to initiate the new program. Currently the Department of Energy is developing a National Energy Strategy and is conducting public meetings and other outreach activities which continue to provide opportunities for State input, prior to the Final Report to the President by the end of the calendar year. Related FE program planning documents, which are expected to remain dynamic, and which include the Hydrocarbon Geoscience Research Strategy, the Natural Gas Research Program Implementation Plan, and the Oil Research Program Implementation Plan, also provide an opportunity for State comment prior to finalization. In addition FE will initiate the development of a Comprehensive Coal Strategy and Plan which will build on the individual coal technology documents currently guiding program development, and connect such planning to the coal-related findings of the National Energy Strategy.

As these National and programmatic level documents are released for comment, evolve and mature, they will provide the basis for updated statements of Federal missions, priorities, strategies and implementation plans, which represent the opportunities for Federal/State cooperation.

Similarly, individual States and regions not only provide independent input to help shape the National Energy Strategy and programmatic level Federal planning, but also develop planning documents of their own which may reflect more detailed and local needs or differences in emphasis associated with State-specific considerations, as well as the broad linkage of National and State energy needs to other regional and local priorities.

As one element of FE commitment to a strong Federal/State Cooperative Program, FE will be sensitive to regional considerations as set forth in the development of the National Energy Strategy, and strive for increased consideration of regional and State needs and technology transfer priorities in the development of its own program level planning.

FE anticipates that continuing mutual outreach activities on the part of both the Federal government and the individual States, based on active dialogue as well as careful review of planning documents, will lead to identification of opportunities accruing to the U.S.

There are two potential features for Federal/State cooperative activities which could offer unique opportunities in terms of National benefits, and which FE is interested in considering for emphasis under the new program. First, it is anticipated that cooperative sponsorship of a project having potential immediate benefits to the commerce and labor force of the participating State could induce additional State activities and plans, thus improving the prospects for earlier commercialization of the results. Second, leveraging opportunities enhancing the R&D portfolio enable the pursuit of a more attractive or more complete development approach than could be undertaken separately by either partner, Federal or State.

In attempting to realize the above potential, FE recognizes that appropriate attention and consideration must be given to the distribution of rights concerning data and intellectual property. A key factor in the FE approach to these matters will be the support and development of the U.S. domestic energy industry. While precision in fully defining a "domestic industry" is not straightforward in the world of multi-national corporations having foreign equity investors and overseas production operations, the FE position will recognize the benefit accruing to the U.S. of enhancing the competitive economic capabilities of enterprises with predominantly U.S. owners and U.S. employees offering state-of-the-art energy products and services. The Deputy Secretary of Energy has charged a Technology Transfer Policy Group to further examine these issues, and it is anticipated that more specific policy guidance and procedures addressing these considerations will be available by this summer.

III. Program Process

The new FE Federal/State Cooperative Program is to be an integral element of FE programmatic activities. As such, overall program policy is established and coordination of activities is conducted at the FE Headquarters level under the direction of the Assistant Secretary for Fossil Energy. Program implementation is through the FE Field structure.

An annual competitive solicitation for proposals from States for cooperative activities in each of three separate fossil resource areas, oil, gas, and coal, will lead to selection and conduct of specific cost-shared program activities. As a procedural process, a program rule will be utilized when this approach to generic solicitation issues will expedite implementation and serve as well to provide accepted model agreements, expediting proposal solicitation and award. Although individual solicitations, specific for the cooperative program, will be issued for oil, gas and coal from the cognizant FE Field Centers and/or Offices, these solicitations will be issued simultaneously on a date coordinated by FE Headquarters, and will be mailed to a single State address for processing by each individual State. Similarly, closing dates for responses will be identical, and awards for all solicitations will be announced simultaneously through coordination at the Headquarters level. The first solicitation is expected to be issued in the summer of 1990, following consultation activities with States and other preparation activities which will occur throughout the spring. Awards would then be accomplished in early calendar 1991.

Awards will be made directly to States, which will guarantee at least 50 percent cost-sharing from the non-Federal partners, and which may in turn pass funding through to other performing

entities, including universities and industry, as previously identified in their proposals. The contractual agreement between the Federal government and the individual States may take the form of a cost-shared contract or cooperative agreement. The appropriate vehicle will depend on the specifics of the work activities and the distribution of the management responsibilities as proposed by the State in response to the solicitation. Grants are not considered to be a viable contracting mechanism for this program because they do not provide for an adequate degree of Federal involvement and programmatic focus in the activities of this specific program which are needed to meet its objectives.

Inclusion of a topic area or mutual Federal/State interest in the solicitation will not guarantee its funding. Selections will be made (independently for oil, gas and coal program areas) from competitive evaluation of specific proposals received, on the basis of evaluation criteria incorporated in the solicitation. Also, State-supported activities specifically designated for FE funding through Congressional action will not be treated as elements of the mutually agreed upon Federal/State Cooperative Program, but can be accommodated separately, through other procurement processes.

Regional reviews of work in progress or completed will provide both the Federal government and the State the needed feedback to modify future activities based upon experience gained, and to provide an independent assessment of equitability of treatment for States and regions in the conduct of the process.

Annual Reports to Congress and to State Governors will summarize current cooperative R&D and mutual outreach activities, significant results obtained and benefits achieved, will incorporate other findings of the review process, and will discuss future planning.

IV. Program Coordination

The Assistant Secretary for Fossil Energy (ASFE) has assigned responsibility for coordination of overall policy guidance and direction to his Executive Assistant, Ms. Faith Williams. Mr. Keith Frye, the ASFE's Director of Business Operations, and his professional staff, will provide for programs and business coordination and assist ASFE and Ms. Williams in an executive secretariat role.

The ASFE will also chair a Federal/State Cooperative Program Policy Committee which will provide a forum for obtaining and coordinating the views of FE program Deputy Assistant Secretaries, FE Field Centers, and Field Office Directors.

The Policy Committee will advise the ASFE annually on program implementation guidance to the Field which will be issued by the ASFE at the start of each solicitation process. This guidance will identify the programs, specific R&D topics, and funding sources which are determined to be most suitable for cooperative Federal/State activities. As described in Section II, these topics will be determined in consultation with interest States and will reflect the intersection of Federal and individual State missions, objectives, strategies and priorities, based on their respective planning documents. The States submit annual formal certification of topics desired for inclusion by the State Governor, together with the State's understanding of how Federal and State priorities mesh in the specific topic areas.

Recognizing that both Federal and State documents are currently in varying degrees of development, it will be acceptable, during a transition period to a fully mature program process, for an individual State to reference other available studies and planning documents which relate their priority R&D topics to national, regional, and state objectives, needs and resulting public benefits. Numerous such documents have been issued by entities which advise the Department of Energy and/or the States, such as the National Coal Council, the Interstate Oil Compact Commission, and the National Petroleum Council; by research institutes such as the Electric Power Research Institute and the Gas Research Institute; by Trade Associations; and by others.

Following the transition year, however, FE anticipates that States desirous of fully participating in the program will develop formal approved State strategy and planning documentation in support of candidate energy technology topics to be recommended for inclusion in the FE solicitation.

The Policy Committee deliberations will emphasize and concentrate on a three-year view: the prior year, the present award year, and the upcoming budget year. In addition, the Committee will also consider multi-year plans and provide general guidance for a more extended period. Accordingly, the Policy Committee will consider the results of completed regional reviews, any current program operational issues (including funding) and planning for upcoming solicitations (including proposed new outreach activities, and suggested modifications to approved topic lists), and direction and planning for new budget proposals. Such deliberations and any resulting recommendations provide an input to ASFE decisions and directions, and are intended to help assure effective program coordination and outyear budget planning.

The ASFE and the Policy Committee will be supported by the FE Office of Business Operations serving as an Executive Secretariat. This office will be responsible for keeping all Committee members fully informed of on-going activities of the Committee, preparing and assembling documents for Committee review, publishing minutes of Committee meetings and similar support activities, and preparing the FE Annual Executive Report to Congress and State Governors on policy, awards, program activities and benefits.

In addition Mr. David Beecy, ASFE's Director of Technical Coordination, and his professional staff will support the committee in the preparation of a detailed Annual Technical and Research Report on the program's activities.

V. Memoranda of Understanding

FE will prepare a Memorandum of Understanding (MOU) with the participating State. The document is intended to reflect agreement on policy viewpoints rather than to serve any detailed legal or contractual purposes. Annexes or other forms of supplementary understandings are not envisioned as requirements.

At a minimum, the MOU will identify the Federal and the State commitment to establish energy strategies and plans and to identify activity areas in which the State and FE have interests in mutual cooperation and for which FE is open to consideration of specific State-nominated topics for solicitations and cooperative activities. The document would also normally include agreements

to exchange information in preestablished program areas, statements of interest and/or intent with respect to other mutual outreach and technology transfer activities, and definitions of procedures and processes for reviews of mutually funded activities. The signatories to the MOU will be the ASFE on behalf of the Federal government, and the Governor on behalf of the State, or a group of Governors for a regional agreement. A signed MOU is not a prerequisite to submission of a proposal and selection for a award. However, an agreed-upon MOU must be in place before the award can be made.

VI. Annual Regional Reviews

FE and participating States will annually conduct a Regional Review of mutually funded activites in preestablished regions. The region definition (which may differ among the oil, gas and coal programs) will be based, to the extent feasible and reasonable, on regional considerations as set forth in the National Energy Strategy and Fe's consequent program planning.

The Review Group will be composed of private sector experts as well as Federal and State officials. The recipients of the review will be the ASFE and the Governors of the involved States. The FE Office of Business Operations will be responsible for management of the review process and procedures, and provide Executive Secretariat services to the Review Group.

As noted in Section III above, the Regional Review will contribute a programmatic evaluation of work in progress or completed, feedback of experience which may be appropriate to consider for modifications of future activities, an independent assessment of equitability of treatment in the conduct of the process, and input to the Annual Executive Report of the Congress and State Governors on significant results obtained, benefits achieved, outreach activities conducted, and any other matters affecting future planning.

VII. Outreach Activities

FE considers mutual outreach activities and continuing diaglogue to be an essential element of the Federal/State Cooperative Program. To this end, FE will support, within available funds, public Federal/State meetings, Program Communications Workshops, electronic bulletin boards, periodic newsletters, and other techniques to facilitate exchange of information and improved mutual understanding of Federal and State needs and interests.

Visits of FE representatives to States to acquire first hand understandings are envisioned, as well as visits of State representatives to FE facilities, and those of FE program contractors to the extent feasible and appropriate.

FE ultimately looks to the States and participating private sector entities to translate R&D knowledge into tangible benefits for U.S. citizens. This broad and near-term results orientation is also welcomed by FE and should be seen as an essential criterion in the design of both technology transfer and other interchange and outreach activities. While funding of potential advances is important, both the Federal government and the States have perhaps more crucial contributions to provide than funding only, if the results of successful R&D driven by market needs and opportunities are to be translated into increased national productivity, economic wealth, and international competitiveness.

It is in this spirit that FE seeks a positive alliance with States in FE program areas, and a serious mutual effort in the establishment and operation of a new FE Federal/State Cooperative Program.

Robert H. Gentile,

Assistant Secretary, Fossil Energy.

[FR Doc. 90-6790 Filed 3-23-90; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. FE C&E 90-07; Certification Notice—55

Filing Certification of Compliance; Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load poweplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Two owners and operators of proposed new electric base load powerplants have filed self certifications in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following companies have filed self certifications:

Name	Date received	Type of facility	Megawatt capacity	Location
Richmond Power Enterprise, L.P. Loughborough Leicestershire, England	3-06-90	Topping Cycle	231	Richmond, VA.
New England Power Company and The Narragansett Electric Company	3-08-90	Combined Cycle	450	Providence, RI

Amendments to the FUA on May 21, 1987, (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Copies of this self certification may be reviewed in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, phone number (202) 586-6769.

Issued in Washington, DC on March 16, 1990.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-6787 Filed 3-23-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Applications for Two Equivalent Methods Determinations

Notice is hereby given that the Environmental Protection Agency has received two applications for equivalent

method determinations. On February 22, 1990, an application was received from Andersen Instruments, Inc., 4801 Fulton Industrial Blvd., Atlanta, Georgia 30336, to determine if their Model FH62I–N PM_{10} Beta Attenuation Continuous Monitor should be designated by the Administrator of the EPA as an equivalent method under 40 CFR part 53. On March 2, 1990, an application ws received from Advanced Pollution Instrumentation Inc., 6393–B Nancy Ridge Drive, San Diego, California 92121–2247, to determine if their Model 100 Fluorescent Sulfur Dioxide Analyzer should be designated by the Administrator as an equivalent method under 40 CFR part 53. If, after appropriate technical study, the Administrator determines that these methods should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register**

Erich W. Bretthauer,

Assistant Administrator for Reasearch and Development.

[FR Doc. 90–6773 Filed 3–23–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3748–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instruments.

DATES: Comments must be submitted on or before April 25, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Lead Additive Report for Refineries and Importers; Lead Additive Report for Manufacturing Facility or Site. (ICR # 0232.05; OMB # 2060–0066). This is a renewal of a previously approved collection.

Abstract: Refineries and importers of gasoline must submit quarterly reports to EPA on their lead usage and gasoline production. Lead additive manufacturers must report to EPA their quarterly sales of lead to refineries. The information is used by EPA to verify compliance with the Lead Phasedown regulations which limit lead in gasoline for health reasons.

Burden Statement: The public reporting burden for this collection of information is estimated to average 2 hours per response, with 4 responses per respondent. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Refineries, importers of gasoline, and lead additive manufacturers.

Estimated No. of Respondents: 408.

Estimated Total Annual Burden on Respondents: 3,123 hours.

Frequency of Collection: Quarterly.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street SW., Washington, DC 20460.

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20530.

Dated: March 20, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90–6777 Filed 3–23–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3748–5]

Financial Assistance Program Eligible for Review Under 40 CFR Part 29; Solid Waste Management Assistance

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and review.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is announcing the availability of a new financial assistance program for solid waste management assistance: training, education, studies, and demonstrations (Catalogue of Federal Domestic Assistance Number 66–808). Limited funds are being made available under the authority of Section 8001 of the Solid Waste Disposal Act (SWDA). EPA will award grants/cooperative agreements to State and local governments and other nonprofit entities for projects intended to promote integrated solid waste management.

DATES: States choosing to include this program in their intergovernmental review process must notify EPA on or before April 25, 1990.

FOR FURTHER INFORMATION CONTACT:

EPA Headquarters:

Attn: William MacLeod, Municipal Solid Waste Program, Office of Solid Waste (OS–301) Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382–7920.

EPA Regional Offices:

Attn: Ronald Jennings, Environmental Protection Agency—Region I, JFK Federal Building, Boston, MA 02203. Telephone: (617) 565–1687.

Attn: Michael DeBonis, Environmental Protection Agency—Region II, Municipal Solid Waste Program, Jacob Javits Federal Building, 26 Federal Plaza, New York, NY 10278, telephone: (212) 264–0002.

Attn: Andy Uricheck, Environmental Protection Agency—Region III, Municipal Solid Waste Program, 841 Chestnut Building, Philadelphia, PA 19107, telephone: (215) 597–8990.

Attn: William Holland, Environmental Protection Agency—Region IV, Municipal Solid Waste Program, 345 Courtland Street NE., Atlanta, GA 30365, telephone: (404) 347–3016.

Attn: William MacDowell, Environmental Protection Agency—Region V, Municipal Solid Waste Program, 230 South Dearborn Street, Chicago, IL 60604, telephone: (312) 886–0976.

Attn: Brian Burgess, Environmental Protection Agency—Region VI, Municipal Solid Waste Program, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue—12th floor, Dallas TX 75202, telephone: (214) 655–6760.

Attn: Chet McLaughlin, Environmental Protection Agency—Region VII, Municipal Solid Was'e Program, 726 Minnesota Avenue, Kansas City, KS 66101, telephone: (913) 551–7666.

Attn: Judith Wong, Environmental Protection Agency—Region VIII, Municipal Solid Waste Program, 999 18th Street—Suite 500, Denver, CO 80202–2405, telephone: (303) 293–1667.

Attn: Ayn Schmit, Environmental Protection Agency—Region IX, Municipal Solid Waste Program, 215 Fremont Street, San Francisco, CA 94105, telephone: (415) 744–8926.

Attn: Mike Bussell, Environmental Protection Agency—Region X, Municipal Solid Waste Program, 1200

Sixth Avenue, Seattle, WA 98101, telephone: (206) 442-2857.

SUPPLEMENTARY INFORMATION: Section 8001 of the SWDA provides that grants/cooperative agreements may be awarded, in part, for investigations, training, demonstrations, surveys, public education programs, and studies relating to solid waste management, including resource recovery and resource conservation. Under this authority, EPA will award a limited number of grants/cooperative agreements aimed at helping to achieve the Agency's solid waste management goals as articulated in *The Solid Waste Dilemma: An Agenda for Action*, Office of Solid Waste, February 1989, EPA/530-SW-89-019. The primary goal is to eliminate the gap between waste generation and available capacity in landfills, combustors and secondary materials markets. This goal will be accomplished by increasing source reduction and recycling and ensuring that all waste management practices are made safer. EPA will not award grants/cooperative agreements for State municipal solid waste planning activities or for capital projects.

The report (An Agenda for Action) recommends using "integrated waste management" to solve municipal solid waste generation and management problems at the local, regional and national levels. In this approach, waste management systems are designed using four waste management options (source reduction, recycling, combustion, and landfilling) as a complement to one another to safely and efficiently manage municipal solid waste. The integrated waste management approach provides the framework for achieving the national goals presented in the Agenda for Action.

Limited funds are available from which EPA may award grants/cooperative agreements to States; territories; the District of Columbia; Puerto Rico; the Virgin Islands; Guam; American Samoa; the Northern Mariana Islands; Indian Tribes; public or private agencies; universities and colleges; State and local governments, and individuals. Profit-making organizations are not eligible to receive assistance under this program.

The Solid Waste Management Assistance Program is eligible for intergovernmental review under E.O. 12372, "Intergovernmental Review of Federal Programs," issued July 14, 1982, as amended; Section 401 of the Intergovernmental Cooperation Act of 1968, as amended; and Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended. States must notify the following office in writing within 30 days of this publication as to whether their State's official E.O. 12372 process will review applications in this program: Grants Policy and Procedures Branch, Grants Administration Division (PM-216F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; ATTN: Corinne Allison.

Applicants must contact their State's Single Point of Contact (SPOC) for intergovernmental review as early as possible to determine if applications under this program are subject to the State's official E.O. 12372 review process and what material must be submitted to the SPOC for review. In addition, certain kinds of projects must be submitted for review to the areawide, regional, or local planning agency designated to perform metropolitan or regional planning for the area, i.e., applications to carry out projects related to planning and construction for waste treatment works and land conservation projects within any metropolitan area are subject to metropolitan review requirements of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended.

SPOC's and other reviewers should send their comments on an application to the appropriate EPA Regional or Headquarters Office no later than 60 days after receiving the application or other material for review. Comments on applications under review at EPA Headquarters should be sent to the Grants Operations Branch, Grants Administration Division (PM-216F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments on grant applications under review by the Regional Offices should be sent to the appropriate Regional Grants Management Office.

All applications will undergo administrative review for adequacy, content, completeness, as well as technical/programmatic criteria set by EPA.

Dated: March 9, 1990.

Mary A. Gade,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 90-6776 Filed 3-23-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3748-4]

Sole Source Aquifer Designation for the Pootatuck Aquifer, Connecticut

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In response to a petition from State Representative Mae Schmidle of the 106th District of Connecticut, notice is hereby given that the Regional Administrator, Region I, of the U.S. Environmental Protection Agency (EPA) has determined that the Pootatuck Aquifer satisfies all determination criteria for designation as a sole source aquifer, pursuant to section 1424(e) of the Safe Drinking Water Act. The designation criteria include the following: The Pootatuck Aquifer is the sole source of drinking water for the residents of that area; there are no viable alternative sources of sufficient supply; the boundaries of the designated area and project review area have been reviewed and approved by EPA; and if contamination were to occur, it would pose a significant public health hazard and a serious financial burden to the area's residents. As a result of this action, all federal financially assisted projects proposed for construction or modification within the Pootatuck River Watershed will be subject to EPA review to reduce the risk of ground water contamination from these projects.

DATES: This determination shall be promulgated for purposes of judicial review two weeks after publication in the **Federal Register.**

ADDRESSES: The data upon which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region I, J.F.K. Federal Building, Water Management Division, GWP-2113, Boston, MA 02203. The designation petition submitted may also be inspected at the Newtown Public Library in Newtown, Connecticut.

FOR FURTHER INFORMATION CONTACT: Robert E. Mendoza, Chief of the Ground Water Management Section, Water Management Division, EPA Region I, J.F.K. Federal Building, WGP-2113, Boston, MA 02203, 617-565-3600.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1424(e) of the Safe Drinking Water Act (42) U.S.C. 300f. 300h-3(e), Pub. L. 93-523) states:

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial asisstance (through a grant, contract, loan guarantee or otherwise) may be entered into

for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On March 9, 1989, EPA received a petition from State Representative Mae Schmidle of the 106th District of Connecticut requesting designation of the Pootatuck Aquifer as a sole source aquifer. EPA determined that the petition, after receipt and review of additional requested information, fully satisfied the Completeness Determination Checklist. A public meeting was then scheduled and held on November 8, 1989 in Newtown, Connecticut, in accordance with all applicable notification and procedural requirements. A six-week public comment period followed the hearing.

II. Basis for Determination

Among the factors considered by the Regional Administrator as part of the detailed review and technical verification process for designating an area under section 1424(e) were: (1) Whether the aquifer is the sole or principal source (more than 50 percent) of drinking water for the defined aquifer service area, and that the volume of water from an alternative source is insufficient to replace the petitioned aquifer; (2) whether contamination of the aquifer would create a significant hazard to public health; and (3) whether the boundaries of the aquifer, its recharge area and streamflow source area, the project designation area, and the project review area are appropriate. On the basis of technical information available to EPA at this time, the Regional Administrator has made the following findings in favor of designating the Pootatuck Aquifer as a sole source aquifer:

1. The Pootatuck Aquifer is the sole source of drinking water to all of the residents within the service area.

2. There exists no reasonable alternative drinking water source or combination of sources of sufficient quantity to supply the designated service area.

3. The Petitioner has appropriately delineated the boundaries of the aquifer recharge area, project designation area and project review area.

4. Although the quality of the Aquifer's ground water is rated as good to excellent, it is highly vulnerable to contamination due to its geological characteristics. Because of this contaminants can be rapidly introduced into the aquifer system from a number of sources with minimal assimilation. This may include contamination from chemical spills; highway, urban and rural runoff; septic systems; leaking storage tanks, both above and underground; road salting operations; saltwater intrusion; and landfill leachate. Since all residents are dependent upon the aquifer for their drinking water, a serious contamination incident could pose a significant public health hazard and place a severe financial burden on the service area's residents.

III. Description of the Pootatuck Aquifer, Designated and Project Review Area

The Pootatuck Aquifer is a 7.9 square mile aquifer located in the Town of Newtown, in southwestern Connecticut. Water contributing recharge to the aquifer drains from a 26.1-square mile watershed within the Housatonic River Basin, and includes small portions of the towns of Monroe and Easton, Connecticut. The aquifer is a typical stratified drift deposit with a saturated thickness generally less than 80 feet. The valley aquifer is underlain by crystalline bedrock, mostly gneiss and schist.

The recharge area is characterized by moderate relief and rolling uplands of bedrock and till. The lowland area where the aquifer is located generally consists of stratified drift. Activities occurring in the upland areas can have a direct impact on the ground water quality of the aquifers.

The designated area is defined as the surface area above the aquifer and its recharge area. For the Pootatuck Aquifer, the boundary of the designated area coincides with the boundary of the watershed basin. The watershed boundary is a surface water divide based on topography, which generally corresponds to the ground water divide.

The projected review area is the same as the designated area boundary and includes the entire Pootatuck River watershed.

IV. Information Utilized in Determination

The information utilized in this determination includes: the petition submitted to EPA Region I by Representative Mae Schmidle; additional information requested from and supplied by the petitioner; written and verbal comments submitted by the public; and the technical papers and maps submitted with the petition. This information is available to the public and may be inspected at the address listed above.

V. Project Review

EPA Region I is working with the federal agencies most likely to provide financial assistance to projects in the project review area. Interagency procedures and Memoranda of Understanding have been developed through which EPA will be notified of proposed commitments by federal agencies to projects which could contaminate the Pootatuck Aquifer. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments when appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for federal financial assistance may be entered into. However, a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to ensure that it will not contaminate the aquifer. Included in the review of any federal financially assisted project will be the coordination with state and local agencies and the project's developer. Their comments will be given full consideration and EPA's review will attempt to complement and support state and local ground water protection measures. Although the project review process cannot be delegated, EPA will reply to the maximum extent possible on any existing or future state and/or local control measure to protect the quality of ground water in the Pootatuck Aquifer.

VI. Summary and Discussion of Public Comments

Over 100 people attended the November 8, 1989 public meeting regarding the Pootatuck Sole Source Aquifer Petition, and many delivered supportive oral comments. In the six-week period following this meeting, EPA received 12 letters from Newtown residents or public officials, 15 letters from non-Newtown residents, 302 petition signatures and 58 post cards. All but one of these supported the designation.

Significant comments were raised regarding:

(1) The methodology employed to delineate the designated and projected review area;

(2) The figures used to estimate water availability from the Pootatuck Aquifer and projected demand by the community; and

(3) The limitations of protection provided by the federal Sole Source Aquifer Program and the need for local

government to take action to protect the aquifer.

In response to questions about the delineation of the designated and project review areas, EPA supports the use of the watershed boundary as used in the petition. The *Petitioner Guidance* (February 1987) gives wide discretion in determining the boundaries of the proposed area, and encourages methods that protect both the direct and indirect recharge areas of the aquifer.

In response to comments regarding water availability and demand, EPA has considered the figures given in witten comments in reaching its decision.

According to modeling data available, the aquifer is capable of yielding approximately 4.0 million gallons per day ("mgd"). At least half of the amount will be required to maintain stream quality and to support waste assimilation and the cold water fishery. The State of Connecticut's diversion control law would, in all likelihood, prohibit withdrawals in excess of 2 mgd. Current water use is 1,009,406 gallons per day and projected water supply demand does not increase and drought conditions do not prevail, Newtown should have sufficient water supplies for the next 40 years.

Other comments, including the one comment opposing designation, question the effectiveness of sole source aquifer designation, given that only a small part of the development in the designated, area will receive federal financial assistance. EPA concurs with these remarks, and acknowledges that a comprehensive ground water protection program must include land use planning and management at the state and local levels as well.

Many comments questioned the relationship between the sole source aquifer petition and the siting of a state correctional facility in Newtown. Because no federal funds are associated with this facility, the issue had no bearing on this designation decision. Notable letters of support were received from federal, state and local governments as well as letters from environmental organizations and reisdents. Reasons given for support include: (1) The total dependence of the residents on ground water for their drinking water supply; (2) the fact that there are no reasonably available alternative sources; (3) that growth and development in the Pootatuck River watershed threaten the continued purity of the resource; and (4) that the Pootatuck Aquifer's designation as a sole source aquifer would heighten public awarness of the vulnerability of the resource and would encourage further protection efforts.

Dated: March 14, 1990.

Paul G. Keough,

Acting Regional Administrator.

[FR Doc. 90-6775 Filed 3-23-90; 8:45 a.m.]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 224-010763-001.

Title: Port of Charleston/Evergreen Marine Terminal Agreement.

Parties:

South Carolina State Ports Authority
Evergreen Marine Corp. (Taiwan) Ltd. (Evergreen).

Synopsis: The Agreement extends the term of Agreement No. 224-010763, an exclusive terminal use agreement, for an additional 5-year period from June 17, 1990 to June 16, 1995. All other terms and conditions of the original agreement remain unchanged.

By Order of the Federal Maritime Commission.

Dated: March 20, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-6696 Filed 3-23-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Commercial Bancorp of Gwinnett, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 13, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 100 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Commercial Bancorp of Gwinnett, Inc.*, Lawrenceville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Commercial Bank of Gwinnett, N.A., Lawrenceville, Georgia, a *de novo* bank.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of M&I Bank of Oconomowoc, Oconomowoc, Wisconsin.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon; to relocate the present main office of its existing subsidiary, First National Bank in Spokane, from its present location in Spokane, Washington, to Coeur d'Alene, Idaho.

Board of Governors of the Federal Reserve System, March 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-6737 Filed 3-23-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger notification Rules

Section 7A of the Clayton Act, 15 U.S.C 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period to its expiration and requires that notice of this action be published in the **Federal Register**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 03-05-90 AND 03-16-90

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Damark International, Inc., QVC Network, Inc., C.O.M.B. Direct Marketing Corp. and CVN Companies, Inc	90-0955	03/05/90
Western Mining Corporation Holdings Limited, Chevron Corporation, Chevron U.S.A. Inc	90-1045	03/05/90
Victor Posner, Guildford Mills, Inc., Guildford Mills, Inc	90-0978	03/06/90
Kenneth R. Thomson, Ralph Ingersoll II, Anderson Newspapers, Inc	90-0970	03/07/90
Kenneth R. Thomson, Warburg, Pincus Capital Partners, L.P., Anderson Newspapers, Inc	90-0971	03/07/90
Kenneth R. Thomson, Warburg, Pincus Capital Company, L.P., Mansfield Journal Company	90-0972	03/07/90
Kenneth R. Thomson, Ralph Ingersoll II, Anderson Newspapers, Inc	90-0973	03/07/90
Brown-Forman Corporation, The Kirk-Stieff Company, The Kirk-Stieff Company	90-0981	03/07/90
MCI Communications Corporation, Western Union Corporation, Western Union Corporation	90-0998	03/07/90
Brierley Investments Limited, GPG plc, GPG plc	90-1017	03/07/90
Minorco, Freeport-McMoRan Inc., Freeport-McMoRan Gold Company	90-1035	03/07/90
The Penn Central Corporation Noranda Inc., Carol Cable Company, Inc	90-0953	03/08/90
Aktiebolaget Volvo, IJ Holdings Corp., IJ Holdings Corp	90-0987	03/08/90
The Cleveland Clinic Foundation, Healthtrust, Inc.—The Hospital Company, North Beach Hospital, Inc	90-1031	03/08/90
Shoji Kanazawa, Gibralter Savings, F.A., Hyatt Grand Champions Resort	90-0952	03/09/90
Hellman & Friedman Capital Partners, American Express Company, Shearson Lehman Hutton holdings Inc	90-0958	03/09/90
AEtna Life and Casualty Company, Voluntary Hospitals of America, Inc., Partners National Health Plans	90-1001	03/09/90
AEtna Life and Casualty Company, AEtna Life and Casualty Company, Partners National Health Plans	90-1011	03/09/90
Craig O. McCaw, Cellular Communications, Inc., Cellular Mobile Systems of Texas, Inc	90-1018	03/09/90
Lykes Energy, Inc., Metro Mobile CTS Limited Partnership, Southern Gas Company Division of Donovan Companies, Inc	90-1056	03/09/90
BSN Corp., The Prospect Group, Inc., Green River Sportswear, Inc., Danzteam, Inc., Team-Mate	90-1059	03/09/90
Forstmann Little & Co. S/D & E/M Buyout Partnership-IV, Gulfstream Holdings Corporation, Gulfstream Holdings Corporation	90-1009	03/12/90
Puerto Rico Maritime Shipping Authority, Sun Company, Inc., S.S. CAGUAS	90-1029	03/12/90
Alexander & Baldwin, Inc., Puerto Rico Maritime Shipping Authority, Puerto Rico Maritime Shipping Authority	90-1036	03/12/90
Lancer Industries Inc. (ESOP) Kane Industries, Inc., Kane Industries, Inc	90-1096	03/12/90
Welsh, Carson, Anderson & Stowe V. L.P., Ford Motor Company, American Residential Mortgage Corporation	90-1104	03/12/90
Longview Fibre Company, Burlington Resources Inc., PCTC—Skykomish, Inc. and PCTC—Oregon, Inck	90-1106	03/12/90
Caparo Group Ltd., James D. Bock, Bock Products, Inc	90-1007	03/13/90
Freeport-McMoRan Inc., Chevron Corporation, Chevron U.S.A. Inc	90-1055	03/13/90
Estate of Roy Richards, National Intergroup, Inc., Natl. Southwire Alum. Co. & Natl. Aluminum Corporation	90-1058	03/13/90
Kobe Steel, Ltd., Komag, Incorporated, Komag, Incorporated	90-1102	03/13/90
Woseley plc, Carolina Components Corporation, Carolina Components Corporation	90-1012	03/15/90
DynCorp, Program Resources, Inc., Program Resources, Inc	90-1057	03/15/90
Mitsubishi Corporation, Mr. Sam M. Winston, Oliver & Winston, Inc., dba Winston Tire Company	90-1060	03/15/90
Federated Industries, Inc., James L. Edelstein, JLE Enterprises, Inc	90-1077	03/15/90
Federal Industries, Inc., Beta Distributing Company, Beta Distributing Company	90-1078	03/15/90
Shoji Kanazawa, Robert H. Schulman, Saint Tropez Partnership	90-1090	03/15/90
Curtis L. Carlson, Adistra Corp., Adistra Corp	90-1027	03/16/90
General Electric Company, Wang Laboratories, Inc., Wang Laboratories, Inc	90-1068	03/16/90
Daimler-Benz AG, Phyllis S. Hojel, ElectroCom Automation Inc	90-1100	03/16/90
Daimler-Benz AG, Peter C. Meinig, ElectroCom Automation Inc	90-1101	03/16/90
Kabuto Decom, Inc., Pinnacle West Capital Corporation, SunCor Development Company	90-1134	03/16/90

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay or Renee A. Horton, Federal Trade Commission, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90-6803 Filed 3-23-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Program Announcement for Nurse Anesthetist Traineeship Grants

The Health Resources and Services Administration announced in the **Federal Register**, Volume 54, No. 192 on October 5, 1989, that applications for Fiscal Year (FY) 1990 Nurse Anesthetist Traineeship Grants were being accepted for traineeship support. This notice also stated that another FY 1990 notice would be issued to over requests for program support. The program support plan was made when funding was not known. The FY 1990 funding level is now available and does not include a sufficient increase to warrant a cycle for program support. Therefore, reference to a cycle for program support in the October 5 notice is rescinded for FY 1990.

Dated: March 20, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90-6694 Filed 3-23-90; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on May 2, 1990, from 2 p.m. to 5 p.m., at the Ramada Renaissance, 111 East Ocean Boulevard, Long Beach, California 90802, (213) 437-5900.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants, and meeting summary, contact: Dr. Edward J. Roccella, Coordinator, National High Blood Pressure Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A05, Bethesda, Maryland 20892, (301) 496-0554.

Dated: March 20, 1990.

William F. Raub,

Acting Director, NIH.

[FR Doc. 90-6763 Filed 3-23-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Advisory Committee on the National Institutes of Health; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that the Advisory Committee on the National Institutes of Health (NIH) will meet on April 25, 1990. The meeting is open to the public and will be held in the Stonehenge Conference Room, 6th Floor of the Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, from 3 p.m. to 7 p.m.

The committee will continue to discuss ways of strengthening the position of the NIH Director.

Dated: March 19, 1990.

Patricia Hoben,

Executive Secretary, Advisory Committee on the NIH.

[FR Doc. 90-6699 Filed 3-23-90; 8:45 am]

BILLING CODE 4160-17-M

[NTP-89-167; NTP-89-168]

National Toxicology Program; Fiscal Year 1989 Annual Plan

The National Toxicology Program (NTP) announces the availability of the NTP Annual Plan for Fiscal Year 1989, solicits comments on it, and urges all interested persons to propose chemicals for possible toxicological evaluation.

The eleventh NTP Annual Plan consists of two parts. First, the NTP Annual Plan for Fiscal Year 1989 (NTP-89-167) describes current year NTP research, applied studies, methods development and validation efforts, resources and past year program accomplishments (Table of Contents follows this announcement). Second, the Review of Current DHHS, DOE and EPA Research Related to Toxicology (NTP-89-168) lists chemicals being studied by the various DHHS agencies, the Department of Energy, and the Environmental Protection Agency, and describes toxicology research and toxicology methods currently being developed by these agencies.

Background

The National Toxicology Program (NTP) was established within the Public Health Service of the Deparment of Health and Human Services (DHHS) in November 1978. The continuing broad goals of the NTP are to coordinate and strengthen DHHS basic and applied toxicology research and methods development and validation, and to provide toxicological information for use by health research and regulatory agencies and others in protecting the public health. Specific goals are to:

- Broaden the spectrum of toxicologic information obtained on selected chemicals;
- Increase the numbers of chemicals studied within funding limits;
- Develop and validate a series of tests and protocols responsive to regulatory needs;
- Communicate Program plans and results to governmental agencies, the medical and scientific communities, and the public.

The NTP coordinates selected toxicology activities of the National Institute of Environmental Health Sciences, National Institutes of Health; the National Center for Toxicological Research, Food and Drug Administration; and the National Institute for Occupational Safety and Health, Centers for Disease Control.

Primary program oversight is provided by the NTP Executive Committee which links DHHS health research institutes with Federal health regulatory agencies to ensure that the basic and applied toxicology research and development activities are responsive to regulatory and public health needs. Agencies represented on the Executive Committee are:

- Agency for Toxic Substances and Disease Registry
- Consumer Product Safety Commission
- Environmental Protection Agency
- Food and Drug Administration
- National Cancer Institute
- National Institute for Occupational Safety and Health
- National Institute of Environmental Health Sciences
- National Institutes of Health
- Occupational Safety and Health Administration

The NTP Board of Scientific Counselors provides scientific oversight, advising the NTP Director and the NTP Executive Committee on scientific content and policy and evaluating the scientific merit and overall quality of NTP science. The members (listed in the 1989 Annual Plan) are appointed by the Secretary, DHHS. For the purposes of the Program, the NTP Director, Dr. David P. Rall, reports to the Assistant Secretary for Health.

Scientific activities are divided into four major program areas: carcinogenesis; cellular and genetic toxicology; reproductive and developmental toxicology; and toxicological characterization. The latter area covers activities in cardiac, cutaneous, immunologic, neurobehavioral, and pulmonary toxicologies, and includes programs in chemical disposition and chemical pathology. Program and project leaders, along with addresses and telephone numbers, are identified in the 1989 Annual Plan.

The chemical nomination and selection process is integral to the effective longterm operation of the NTP with respect to toxicological studies of chemicals using modern techniques and to the development and validation of new assay methods. Thus, the NTP welcomes nominations of chemicals for study from everyone. At a minimum, the nominator should give the name of the chemical or substance, the rationale for the nomination, and recommend the type study(s) to be considered. In

addition, it is desirable, but not essential, to supplement each nomination with the following information, if known:

I. Chemical and physical properties.
II. Production, use, occurrence, and analysis data.
III. Toxicology information.
IV. Chemical disposition and structure-activity-relations.
V. Planned or ongoing or recently completed toxicological and environmental studies.

To receive the NTP Annual Plan for Fiscal Year 1989, and the FY 1989 Review of Current DHHS, DOE, and EPA Research Related to Toxicology, please write or telephone the NTP Public Information Office, P.O. Box 12233, Research Triangle Park, N.C. 27709, (telephone: (919) 541–3991 or FTS 629–3991).

Comments on the FY 1989 NTP Annual Plan are requested and welcome. These should be addressed to Dr. Larry Hart, National Toxicology Program, P.O. Box 12233, Research Triangle Park, NC. 27709 (telephone: (919) 541–3971 or FTS 629–3971).

Dated March 20, 1990.

David P. Rall,

Director, National Toxicology Program.

Table of Contents—NTP FY 1989 Annual Plan

[FR Doc. 90–6764 Filed 3–23–90; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

Privacy Act of 1974; New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of a New Privacy Act System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a new Privacy Act system of records, 09–25–0145, "Clinical Research: Clinical Trials and Epidemiological Studies dealing with Visual Disease and Disorders in the National Eye Institute HHS/NIH/NEI." We are also proposing routine uses for this new system.

DATES: PHS has sent a Report of a New Privacy Act System to the Congress and to the Office of Management and Budget (OMB) on March 15, 1990. The system of records will be effective 60 days from date submitted to OMB unless PHS receives comments on the routine uses which would result in a contrary determination.

ADDRESSES: Please submit comments to: NIH Privacy Act Officer, National Institutes of Health, Building 31, Room 3B–07, 9000 Rockville Pike, Bethesda, MD 20892, 1–(301) 496–2832.

Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m., Monday through Friday in Room 3B–03, Building 31.

FOR FURTHER INFORMATION CONTACT: NIH Privacy Act Officer, Building 31, Room 3B–07, 9000 Rockville Pike, Bethesda, MD 20892, or call 1–(301) 496–2832.

This is not a toll free number.

SUPPLEMENTAL INFORMATION: The National Institutes of Health (NIH) proposes to establish a new system of records: 09–25–0145, "Clinical Research: NEI Clinical Trials and Epidemiological Studies dealing with Visual Disease and Disorders, HHS/NIH/NEI." This proposed system of records will comprise records generated in research projects supported by the National Eye Institute (NEI). Such research involves scientists working under contracts awarded competitively by NEI and staff scientists of NEI. NEI may award contracts to hospitals, clinics, universities, or small business firms.

Records collected under this system will be organized and maintained according to the particular study which they support. Personal data will not be entered into a general or comprehensive data base, nor will there be any general index identifying all persons who are subjects of records in the separate studies covered by this system. However, NIH will be treating the separate sets of records as a single system under the Privacy Act (1) because all of the sets of records serve the same purposes and contain similar types of data, (2) in order to apply consistent policies and practices in the maintenance of such records, and (3) to make it easier for subject individuals to obtain notification of, or access to, their records.

Individuals may be asked to supply Social Security numbers voluntarily to assist, through the mortality register, in determining their existence for follow-up studies. However, NIH will not use records in the system to make any determination concerning rights, benefits, or privileges of the individuals.

The records in this system will be maintained in a secure manner compatible with their content and use. Contractors will be required to adhere to provisions of the Privacy Act. Access will be given only to authorized contractor and NEI staff whose official duties require access for purposes of carrying out the contract.

Individually identifiable records will be kept in a locked, limited-access area. Computerized records will be maintained in accordance with part 6, "ADP System Security," in the HHS Information Resource Management Manual.

The first routine use, permitting disclosure to a congressional office, is proposed to allow subject individuals to obtain assistance from their representatives in Congress, should they so desire. The second routine use proposed for this system allows disclosure to the Department of Justice or a court in the event of litigation. The third routine use is proposed to allow contractors to accomplish logistical work related to the projects. The fourth routine use proposes to allow disclosure of the data to other scientists for further research such as a follow-up or cohort investigation.

This system notice is written in the present, rather than the future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after it becomes effective.

Dated: March 16, 1990.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–25–0145

SYSTEM NAME:

"Clinical Research: Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the National Eye Institute, HHS/NIH/NEI."

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals, universities, research centers, research foundations, and coordinating centers under contract with the National Eye Institute (NEI), and in NEI, National Institutes of Health, Building 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

A current list of contractor sites is available by writing to the System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies include (1) individuals who have been or who are presently being treated by the NEI or its contractors for visual disorders or conditions of the eye, (2) individuals who present physiological symptoms usually preceding or evidencing diseases or disorders of the eye, (3) offspring of previously studied populations, (4) populations at high-risk for development of certain eye disorders, such as age-related, and (5) normal volunteers who have agreed to provide control data germane to these studies. Studies are usually five years in duration and follow-up studies may occur in later years if information indicates they are appropriate.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of clinical, medical, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observation. The system also includes records of current addresses of study participants, photographs of structures of the eye, and correspondence from or about participants in these studies. Social security numbers, disclosed voluntarily, are included to assist in locating patients for follow-up studies, or verifying their existence through mortality registers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 301, 401, 405, 455, Public Health Service Act (42 U.S.C. 281, 284, 285i). These sections establish the National Eye Institute and authorize the conduct and support of vision research and related activities.

PURPOSE OF THE SYSTEM:

1. To monitor and evaluate incidence of visual disorders and/or diseases or the conditions under investigation and the relationship of various factors to the occurrence of these diseases.

2. To monitor the progression of various eye disorders and the efficacy of specific treatments of these disorders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made:

1. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to affect directly the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, in defending a claim against the Public Health Service based upon an

individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

3. To a private firm or a research institution for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose

(i) Cannot be reasonably accomplished unless the record is provided in individually identifiable form, and

(ii) Warrants the risk, if any, to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to

(i) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(ii) Remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and

(iii) Make no further use or disclosure of the record except

((a)) In emergency circumstances affecting the health or safety of any individual,

((b)) For use in another research project, under these same conditions, and with written authorization of the Department,

((c)) For disclosure to a properly identified person for an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

((d)) When required by law;

(d) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, on magnetic tapes or discs, punched cards, bound note books, and/or photographs.

RETRIEVABILITY:

Information is retrieved by a combination of a coded name and patient identification number.

SAFEGUARDS:

a. *Authorized Users:* Employees who maintain records in the system are instructed to grant access to principal investigators and other treating physicians, clinic coordinators, and NEI employees whose duties require the use of such information. Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for each record maintained in each project.

b. *Physical Safeguards:* Clinics are located in University Hospitals and the Clinical Center, NIH. These clinics are locked and records are kept in locked files with access by keys issued to principal investigators, appropriate physicians and coordinators. There is a security force at each center to avoid unauthorized entries. The computer records are accessed by passwords available only to principal investigators and authorized operators. Data is protected by enforcement of State laws applicable to fire and safety at each facility, as well as ADP Security and the Privacy Act regulations for each state.

c. *Procedural Safeguards* Routine visits are scheduled by the clinic coordinator who is authorized to access records. New records are generated each time a patient is seen by the physician and a copy of the form which is applicable to that visit is added to the patient's medical folder. (Documents forwarded to the data and reading centers do not bear individual identifiers) The folder is then returned to the locked file. Clinics are also locked when patients are not being seen, and medical staff is present when patients are in the clinic.

If data is entered in computers as part of the hospital record, Privacy Act and hospital safeguards are enforced by access codes and passwords.

RETENTION AND DISPOSAL:

(Records at contractor sites are retained by the facility consonant with its institutional records retention schedule.) Records at the NEI are retained in accordance with the NIH Records Control Schedule (DHHS Records Management Manual, Appendix B–361), Sections 3000–3 and 3000–6. Write to System Manager for a copy of the relevant disposition standards.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Biometry and Epidemiology Program, National Eye Institute, 9000 Rockville Pike, 31/6A–10, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

To determine if record exists, write to: NEI Privacy Act Coordinator, 9000 Rockville Pike, 31/6A–17, Bethesda, MD 20892.

The requestors must verify his/her identity by providing: a written certification that the requestor is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the act, subject to $5,000 fine. An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

(1) Name, description of study

(2) Location

(3) Approximate date of participation

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought.

Individuals may also request an accounting of disclosures that have been made or their records, if any. An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who is willing to review the record and inform the subject individual of its contents at the representative's discretion.

CONTESTING RECORD PROCEDURES:

Contact the Privacy Act Coordinator at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought and the reason(s) for requesting the correction, along with supporting justification to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained by the principal investigator, treating physician, or clinic

coordinator, directly from individual study participants, by interview to record certain pertinent historical facts, and by physical examination and photographs to record medical data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 90-6695 Filed 3-23-90; 8:45 am]

BILLING CODE 4140-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-970-00-4120-14-2410; ALES 41886]

Request for Public Comment on Fair Market Value, Maximum Economic Recovery and the Environmental Assessment; Emergency Coal Lease Application ALES 41886

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearing and comment period.

SUMMARY: The Bureau of Land Management requests public comments on the fair market value, maximum economic recovery and the environmental assessment of certain coal resources it proposes to offer for competitive lease sale. The lands included in Emergency Coal Lease Application ALES 41886 are located in Jefferson County, Alabama within the following portion of land in which the Federal Government owns the coal seams only:

Gilmore Tract Profile

S2SE, section 26, T. 17 S., R. 6 W.,
Containing 80 acres.

The range of quality of the coal within the proposed lease is as follows:

Pratt seam

Proximate analysis (percent)	As received	Dry basis
Moisture	6.00	XXXX
Ash	8.50	8.60
BTU/lb	13,600	14,500
Sulfur	1.60	1.70

Nickel plate

Proximate analysis (percent)	As received	Dry basis
Moisture	5.50	XXXX
Ash	4.80	4.90
BTU/lb	13,800	14,400
Sulfur	0.70	0.73

The public is invited to submit written comments on the fair market value and the maximum economic recovery of the tract. In addition, notice is also given that a public hearing will be held on May 3, 1990 on the environmental assessment, the proposed sale, the fair market value, and the maximum economic recovery of the proposed lease tracts.

DATES: Written comments must be received on or before May 1, 1990.

ADDRESSES: The public hearing will be held on May 3, 1990 at the Ramada Hotel Civic Center Plaza, 901 21st Street North, Birmingham, Alabama 35203 at 3:00 p.m. in room 206.

FOR FURTHER INFORMATION CONTACT: For more complete data on this tract, please contact Pearl Flaver Tillman at (703) 461-1468, at the Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304.

SUPPLEMENTARY INFORMATION: In accordance with the Federal coal management regulations 43 CFR parts 3422 and 3425, not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management, Eastern States Office, at the above address, in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, Eastern States Office, at the above address, during regular business hours (7:30 a.m. to 4:00 p.m.) Monday through Friday, except Federal holidays. Comments should be sent to the Bureau of Land Management, Eastern States Office, at the above address, and should address, but not necessarily be limited to the following information:

1. The method of mining to be employed in order to obtain maximum economic recovery of the coal;

2. The impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and

3. Methods of determining the fair market value of the coal to be offered.

The coal characteristics given above may or may not change as a result of comments received from the public and changes in market conditions that occur between now and the time at which final economic evaluations are completed.

G. Curtis Jones, Jr.,

State Director.

[FR Doc. 90-6805 Filed 3-23-90; 8:45 am]

BILLING CODE 4310-84-M

[WY-920-08-4120-11; WYW119000]

Coal Leases, Exploration Licenses, etc., Wyoming; Correction

AGENCY: Bureau of Land Management.

ACTION: Notice, correction.

SUMMARY: In the **Federal Register** of February 20, 1990, the Bureau of Land Management published an Invitation for Coal Exploration License for the Bridger Coal Company. Three errors have been identified in the publication. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Wyoming State Office, Branch of Mining Law and Solid Minerals, P.O. Box 1828, Cheyenne, Wyoming 82003-1828.

SUPPLEMENTARY INFORMATION: In FR Doc. 90-3756, appearing at page 5899 in the **Federal Register** of February 20, 1990, the following corrections are made:

Under the heading **"SUMMARY"**, third paragraph, third line:

"Powder River Basin known coal leasing area" is corrected to read:

Rock Springs known coal resource area;

Under the heading **"SUPPLEMENTARY INFORMATION"**, first paragraph, line 15:

"Box 2066"

is corrected to read:

Box 2068;

and, the first paragraph, line 16:

"82902-2066"

is corrected to read:

82902-2068.

The thirty (30) day comment period discussed under the heading **SUPPLEMENTARY INFORMATION**, first paragraph, lines 6 through 12, expires March 22, 1990.

F. William Eikenberry,

State Director.

[FR Doc. 90-6728 Filed 3-23-90; 8:45 am]

BILLING CODE 4120-11-M

[AZ-010-90-4410-08; 1784-010]

Areas of Critical Environmental Concern; Arizona Strip District

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of proposed Areas of Critical Environmental Concern (ACEC) designations on the Arizona Strip District and extension of the public comment period for the draft Arizona Strip District Resource Management Plan and Environmental Impact Statement (RMP/EIS).

SUMMARY: The Arizona Strip District is proposing in the RMP/EIS to designate 10 ACEC's. The public comment period on this document has been extended from April 16, 1990 to May 21, 1990 to provide full opportunties for adequate public involvement. The following is a listing of each ACEC and proposed resource use limitations

Beaver Dam Slope (20,800 acres)—close to mineral material disposal, allow no new permanent roads, and close area to off-highway-vehicle (OHV) use.

Virgin River Corridor (8,100 acres)—continue mineral withdrawal, close to mineral material disposal, allow no new permanent roads, and limit OHV's to designated roads and trails.

Little Black Mountain (200 acres)—close to mineral material disposal and limit OHV's to designated roads and trails.

Fort Pierce (900 acres)—close to mineral material disposals and limit OHV's to designated roads and trails.

Marble Canyon (10,700 acres)—close to mineral material disposals, no vegetation manipulation projects and close to OHV use.

Johnson Spring (2,400 acres), Lost Spring Mountain (9,800 acres) and Moonshine Ridge (5,500 acres)—close to mineral disposals, no vegetation conversions alllowed, no new range improvements within 100 yards of significant cultural sites, close to woodland products and limit OHV's to designated roads and trails.

The Paria Plateau (186,000) is considered as an ACEC in Alteranative 3.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 390 North 3050 East, St. George, Utah 84770 (Phone 801/673-3545).

SUPPLEMENTARY INFORMATION: The purpose of the comment period extension is to allow the public adequate time to respond to the Bureau's ACEC proposals.

Dated: March 13, 1990.

G. William Lamb,

Arizona Strip District Manager.

[FR Doc. 90-6714 Filed 3-23-90; 8:45 am]

BILLING CODE 4310-32-01

[OR-030-00-4320-02: GPO-166]

Meeting of Vale District Multiple-Use Advisory Council

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given in accordance with Public Law 92-463 that a meeting of the Vale District Multiple-Use Advisory Council will be held April 25-26, 1990. The meeting will include a field tour of three mineral development sites in northern Nevada.

The agenda of the meeting will include: Trout Creek Mountains Geographical Emphasis Area update, Policy for grazing use of public lands if drought conditions persist, Release of Council member names and addresses to outside groups, Election of Council officers, and Mineral exploration and development on the public lands.

The meeting is open to the public. Interested persons may make oral statements to the Council or may file written statements for the Council's consideration. Anyone wishing to make oral statements may do so at 12 a.m. (PST) on April 25, the day of the meeting, at the McDermitt Community Hall, McDermitt, NV.

Due to limited space on Bureau of Land Management-provided vehicles, those wishing to attend the meeting must furnish their own transportation. Security, safety, and liability concerns dictate that those wishing to visit the mine sites must make their own arrangements with the individual mines. Individuals wishing to attend the meeting or visit the mine sites will be responsible for their own meals and accommodations.

Summary minutes of the Board's meeting will be maintained in the district office and will be available for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days of the meeting.

DATES: The Advisory Council will depart from the Vale District Office, 100 Oregon Street, Vale, OR, at 8 a.m. (MDT) on April 25, 1990. The Council will have a lunch meeting, which will begin at 11 a.m. (PDT) April 25, 1990, in the McDermitt Community Hall, McDermitt, NV. The Council will visit the Sleeper Mine after the lunch meeting. The Council will visit the Pinson and Gold Fields mines on Thursday, April 26, and return to Vale.

ADDRESSES: The luncheon meeting will be held in the McDermitt Community Hall, McDermitt, NV 97918.

FOR FURTHER INFORMATION CONTACT: Gerard Hubbard, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918 (telephone 503 473-3144).

William C. Calkins,

District Manager.

[FR Doc. 90-6729 Filed 3-23-90; 8:45 am]

BILLING CODE 4301-33-M

[NV-943-09-3111-15; N-45078]

Proposed Reinstatement of a Terminated Oil and Gas Lease; Nevada

March 13, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice proposes Class II reinstatement of oil and gas lease N-45078.

EFFECTIVE DATE: Effective November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Jack Lewis, Bureau of Land Management, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520, (702) 785-6538.

SUPPLEMENTARY INFORMATION: Under provisions of Public Law 97-451, petition for reinstatement of oil and gas lease N-45078 for lands in White Pine County, Nevada, was timely filed and was accompanied by all required rentals and royalties accruing from November 1, 1989, the date of termination. No valid lease has been issued affecting the lands. The Lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16-⅔ percent respectively. Payment of a $500 administrative fee has been made. Having met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective November 1, 1989, subject to the increased rental and royalty rates cited above and the original terms and conditions of the lease and the

reimbursement for cost of publication of this notice.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 90-6731 Filed 3-23-90; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-00-4212-22]

Filing of Plats of Survey; Nevada

March 12, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filings were effective at 10 a.m. on February 23, 1990.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management, (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, (702) 785-6541.

SUPPLEMENTARY INFORMATION: The Plats of Survey of Lands described below were officially filed at the Nevada State Office, Reno, Nevada on February 23, 1990.

Mount Diablo Meridian, Nevada

T. 47 N., R. 38 E.—Dependent Resurvey and Survey
T. 19 N., R. 53 E.—Dependent Resurvey and Subdivision of Section 11
T. 37 N., R. 62 E.—Dependent Resurvey and Subdivision of Section 2
T. 20 N., S. 57 E.—Dependent Resurvey and Subdivision

T. 20 N., S. 57 E., was accepted on February 9, 1990; the other listed surveys were accepted on January 26, 1990. T. 20 S., R. 57 E., was executed to meet certain administrative needs of the U.S. Forest Service, other listed surveys were executed to meet certain administrative needs of the Bureau of Land Management.

All the above-listed surveys are now the basic record for describing the lands for all authorized purposes. The surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fee.

Bob Steele,

Deputy State Director, Operations.

[FR Doc. 90-6733 Filed 3-23-90; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Meeting, Klamath Fishery Management Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 9:00 a.m. to 5:00 p.m. Saturday, March 31, 1990 and from 8:00 a.m. to 3:15 p.m. on Sunday, April 1, 1990.

PLACE: The March 31st, meeting will be held in the conference room of the North Coast Inn, 4975 Valley West Blvd., Arcata, Califronia. The meeting will be continued on April 1st, in the conference room of the Red Lion Motor Inn, 1929 Fourth Street, Eureka, Califronia.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1030 South Main), Yreka, California 96097-1006, telephone (916) 842-5763.

SUPPLEMENTARY INFORMATION: For background information on the Management Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

The Council will hear a technical review of options promulgated by the Pacific Fishery Management Council for 1990 management of ocean salmon fisheries. After public comment, the Klamath Council will consider selecting one option for management of ocean harvest of Klamath salmon stocks to be recommended to the Pacific Council. The Pacific Council will make final, coastwide recommendations on 1990 ocean salmon management during their April, 1990 meeting. The Klamath Council will also hear a report on anticipated Trinity River flows and other aspects of the projected 1990 California water supply.

Dated: March 14, 1990.

William E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 90-6792 Filed 3-23-90; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Pacific Outer Continental Shelf Region's 5th Information Transfer Meeting

AGENCY: Department of the Interior, Minerals Management Service, Pacific OCS Region.

ACTION: Pacific Outer Continental Shelf Region's 5th Information Transfer Meeting; Notice and Meeting Agenda.

The Pacific OCS Region's 5th Information Transfer Meeting is scheduled to be held May 7-9, 1990, at the Fess Parker's Lion Resort, 633 East Cabrillo Blvd., Santa Barbara, California 93103

The tentative agenda for the meeting follows:

Day 1: An Introduction To Minerals Management Service's Pacific Outer Continental Shelf Region Office.

Day 2: Offshore Oil and Gas in Today's Society.

Keynote Address

Offshore Oil and Gas's Place in the National Energy Policy
National Energy Strategy
Congressional Comments
Social/Economic Impacts From OCS Oil Activities
The State of the Agency Address
Pacific OCS Region Environmental Studies Program Overview
University of California, Educational Initiative
Does OCS Development Benefit Society? A debate.

Day 3: Offshore Oil and Gas in Today's Society.

High School Student's Presentation: "Oil in the Future"
OCS Revenue Sharing in California (8g)
Local Government Influence Upon OCS Activities
Oil and Fishing—Conflict Resolution
Energy Conservation
Alternative Energy Technologies
National and International Impacts of OCS Activities
Huntington Beach Oil Spill Containment and Clean-Up Response
A Panel Discussion on Oil Spills and Information Flow

Meeting proceedings will be presented in a report and upon completion be available at: Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Los Angeles, California 90017.

Dated: March 16, 1990.

Mr. Peter Tweedt,

Acting Regional Director, Pacific OCS Region.

[FR Doc. 90-6739 Filed 3-23-90; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to Office of Management and Budget for Review Under Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029-0067), Washington, DC 20503, telephone 202-395-7340.

Title: Restrictions of Financial Interests of State Employees, 30 CFR 705

OMB approval number: 1029-0067

Abstract: Respondents supply information on employment and financial interests. The information is used to determine if respondents are in compliance with Section 517(g) of the Surface Mining Control and Reclamation Act of 1977 which places and absolute prohibition on having a direct or indirect financial interests in underground or surface coal mining operations.

Frequency: Entrance on duty and annually

Description of respondents: Any State regulatory authority employee or member of advisory boards and commissions extablished in accordance with State law or regulation to represent multiple interests who performs and function or duty under the Act is required to file a statement of employment and financial interests.

Estimated completion time: 20 minutes

Annual responses: 2,777

Annual burden hours: 930.

Bureau clearance officer: Andrew F. DeVito 202-343-5954

Dated: February 26, 1990

Andrew F. DeVito,

Acting Chief, Regulatory Development and Issues Management.

[FR Doc. 90-6741 Filed 3-23-90; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

Legal Description of Lands Transferred Pursuant to the National Forest and Public Lands of Nevada Enhancement Act of 1988; Correction Notice

March 12, 1990.

AGENCIES: Bureau of Land Management, Interior. U.S. Forest Service, Agriculture.

ACTION: Correction notice.

SUMMARY: This notice makes a second correction to Document No. 89-27518 published on November 24, 1989, in Volume 54 **Federal Register**, Pages 48659-48664.

EFFECTIVE DATE: April 26, 1989.

FOR FURTHER INFORMATION CONTACT: Regarding land transferred to the U.S. Forest Service, contact Bob Larkin, Officer, Land Management and Planning, U.S. Forest Service, Toiyabe National Forest, 1200 Franklin Way, Sparks, Nevada 89431. Regarding land transferred to the Bureau of Land Management, contact Bob Stewart, Chief, Public Affairs Staff, Bureau of Land Management, Nevada State Office, P.O. Box 12000, 850 Harvard Way, Reno, Nevada 89520.

SUPPLEMENTARY INFORMATION: The following correction is made to Document No. 89-27518 published on November 24, 1989, in 54 FR 48659-48664: 1. Page 48659, second column, after line 18: Add "Sec. 8, all;".

Edward F. Spang,

State Director, Nevada Bureau of Land Management.

[FR Doc. 90-6730 Filed 3-23-90; 8:45 am]

BILLING CODE 4310-HC-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal offices: Reliance Electric Company, 6065 Parkland Blvd., Cleveland, Ohio 44124.

2. Wholly owned subsidiaries which will participate in the operations, and State of incorporation:

Inertia Dynamics Co., 146 Powder Mill Road, Collinsville, Connecticut 06022, State of incorporation: Delaware

Lorain Products/Comm:/Tec Corp., 1122 Frank Street, Lorain, Ohio 44052, State of incorporation: Delaware

Reliable Electric Co., 11333 Addison Street, Franklin Park, Illinois 60131, State of incorporation: Delaware

Noreta R. McGee,

Secretary.

[FR Doc. 90-6783 Filed 3-23-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

April 19, 1990.

The Office of Management and Budget (OMB) has been sent the following collection of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information: (1) The title of the form/collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether section 3504(h) of Public Law 96-511 applies. Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated public burden and the associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395-7340 *and* to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633-4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *and* the DOJ Clerance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *and* to Mr. Larry E. Miesse, DOJ Clearance

Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Revision of a Currently Approved Collection

(1) Judicial Recommendations Against Deportation; Controlled Substance Violations.
(2) No form number. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This information will aid the Immigration and Naturalization Service in not placing unnecessary detainers on alien criminals and will help ensure that deportation proceedings will not be commenced in error.
(5) 3,000 estimated respondents at .25 hours each.
(6) 750 estimated annual burden hours.
(7) Not applicable under 3504(h).

New Collection(s)

(1) The 1990 Census of State and Federal Correctional Facilities.
(2) CJ 42, CJ 43. Bureau of Justice Assistance, Office of Justice Programs.
(3) One time.
(4) State or local governments, Federal agencies or employees. Data collected from Federal and State adult correctional facilities and used by Federal and State correctional administrators, legislators, researchers, planners, and others to evaluate the current conditions and needs of correctional facilities.
(5) 1,200 estimated annual responses at 2.125 hours per response.
(6) 2,550 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Petition For Temporary Worker or Trainee.
(2) I–129H (replaces I–129B after July 31, 1990). Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households, businesses or other for-profit. Form 129–H is to be used by an employer to apply or an "H" nonimmigrant visa classification for a foreign national to come temporarily into the United States to work to receive training.
(5) 50,000 estimated annual responses at one hour per response.
(6) 50,000 estimated annual public burden hours.
(7) Not applicable under 3504(h).

Larry E. Miesse

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 90–6802 Filed 3–23–90; 8:45 am]

BILLING CODE 4410–10–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc. and the Societa' Cavi Pirelli, S.p.A.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on February 21, 1990 has filed a written notification on behalf of Bellcore and the Societa' Cavi Pirelli, S.p.A. (hereinafter referred to as "Pirelli") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the joint venture and (2) the nature and objective of the joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

Pirelli is an Italian corporation having a place of business at Viale Sarca 202, 20126 Milano, Italy.

Bellcore and Pirelli entered into an agreement effective January 19, 1990 to engage in cooperative theoretical and experimental studies of optical amplifiers and fiber components to better understand the applications of such technology for exchange and exchange access services, including demonstrating feasibility of research concepts by experimental prototypes of such technologies.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90–6798 Filed 3–23–90; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc. and American Telephone and Telegraph Company

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on February 28, 1990 has filed a written notification on behalf of Bellcore and American Telephone and Telegraph Company ("AT&T") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the joint venture and (2) the nature and objective of the joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

AT&T is a New York corporation having a place of business at One Oak Way, Berkeley Heights, New Jersey 07922.

On February 2, 1990, Bellcore and AT&T entered into an agreement effective as of July 1, 1989 to engage in cooperative theoretical and experimental studies of low threshold current surface emitting lasers to better understand the applications of this technology, including feasibility of research concepts by experimenting with research prototypes of such technology, for exchange and exchange access services.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90–6797 Filed 3–23–90; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—PDES Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), PDES Inc. ("PDES") on February 26, 1990 has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changed to its membership. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, which limits the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On September 20, 1988, PDES filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 14, 1988 (53 FR 40282). On February 16, 1989, June 27, 1989, and January 5, 1990, PDES filed additional written notifications. The Departmen

published notices in response to the additional notifications on March 21, 1989 (54 FR 11580), July 18, 1989 (54 FR 30116), and February 12, 1990 (55 FR 4918), respectively.

Hewlett-Packard Co. has been admitted as a member of PDES effective November 28, 1989.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-6799 Filed 3-23-90; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to National Cooperative Research Act of 1984; Surface Cleaning Technology Consortium

Notice is hereby given that, on March 1, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Surface Cleaning Technology Consortium ("SCTC") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the members of SCTC and (2) the nature and objectives of the SCTC. The notifications were filed for the purpose of invoking the Act's provisions limiting the potential recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the SCTC and SCTC's general area of planned activity are given below.

The current members of SCTC are: International Business Machines Corporation, Fujitsu Limited, Kobe Steel, Ltd.

The SCTC's area of planned activity is research and development related to technology for achieving ultra-clean surfaces that can be used by SCTC's members in their own manufacturing processes.

Membership in SCTC remains open, and the members intend to file additional written notification disclosing all changes in membership.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-6800 Filed 3-23-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Committee on United Mine Workers of America (UMWA) Retiree Health Benefits; Open Meeting

AGENCY: Office of the Secretary, Labor.

SUMMARY: The committee was established on March 12, 1990 to advise the Secretary of Labor on matters concerning health care issues arising from the United Mine Workers of America (UMWA) 1950 and 1974 Benefit Trusts and the effects of resolving these issues on the coal industry as a whole.

TIME AND PLACE: On April 11, 1990 at 10:00 a.m. the meeting will take place at the Frances Perkins (Main Labor) Building, 200 Constitutoin Avenue, NW., Conference Room S-2508, Washington, DC 20210.

AGENDA: The purpose of the meeting will be to consider the items listed below:

1. Adopt procedures for receiving submissions
2. Adopt procedures to govern Commission meetings.
3. Be briefed on the requirements of the Federal Advisory Committee Act.
4. Be briefed on the history of health care benefits in the bituminous coal industry.
5. Receive information on the state of the funds.
6. Receive a report on the status of major efforts to develop health care funding policy options.
7. Adopt a preliminary list of issues to be considered by the Commission.
8. Identify materials to be prepared, and tasks to be performed, by individual Commission members.

PUBLIC PARTICIPATION: The meeting will be open the public participation and the last thirty minutes will be set aside for oral comments and questions. Approximately 50 seats will be available for the public, including five seats reserved for the media. Seats will be available on a first-come first-serve basis.

Individuals or organizations wishing to submit written statements should send 20 copies to Ann L. Combs, Deputy Assistant Secretary for Pension and Welfare Benefits, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Tel. (202) 523-8233. Papers will be accepted and included in the record of the meeting if received on or before April 9, 1990.

FOR FURTHER INFORMATION CONTACT: Jan Horbaly, Executive Director, Advisory Committee on UMWA Retiree Health Benefits, U.S. Department of Labor 200 Constitution Avenue NW., Room S-2018, Washington, DC. 20210, Tell (202) 523-8271.

Signed at Washington, DC, this 20th day of March, 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90-6804 Filed 3-23-90; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

[TA-W-23,756]

AT&T, Material Management Systems Division, San Leandro, CA; Negative Determination Regarding Application for Reconsideration

By an application dated February 27, 1990, Local #9495 of the Communication Workers of America requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on February 14, 1990 and published in the **Federal Register** on March 8, 1990 (55 FR 8616).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances;

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union implies that the Department was inconsistent in its determinations by certifying the AT&T workers at Denver, Colorado (TA-W-23,757) while denying the AT&T workers at San Leandro, California (TA-W-23,756). The union states that both the Denver and San Leandro worker petitions were identical and submitted at the same time. The union also states that the U.S. Department of Commerce upheld AT&T's complaint of telecommunication equipment dumping and unfair trade practices.

Investigation findings show that the dominant part of the total value produced by the San Leandro service center's shop and warehouse fall within the product categories of residential telephone sets and electronics. Other findings show that AT&T ceased production of residential telephone sets in the U.S. in early 1986. Further, the electronics produced in the U.S. did not account for a substantial portion of the total used in the shop in 1988 or 1989. In addition, the electronics were used on products whose workers were not under an active certification in any of AT&T's facilities.

A substantial portion of the equipment which is repaired and warehoused at AT&T's Denver facility consists of small business telephone systems and electronics for the Merlin group of small

business telephone systems. The overwhelming part of the small business telephone systems and electronics are manufactured at other AT&T facilities whose workers are certified eligible to apply for adjustment assistance.

Certification under the worker adjustment assistance program is based on increased imports of articles that are like or directly competitive with those produced at the workers' firm and which "contributed importantly" to worker separations and declines in sales or production. Dumping and other unfair trade practices do not, in themselves, provide a basis for a worker group certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 12th day of March, 1990.

Mary Ann Wyrsch,

Director, Office of Unemployment Insurance Service, UIS.

[FR Doc. 90-6705 Filed 3-23-90; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 15, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 5, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 12th day of March 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
A.O. Smith Electrical Products (IBEW)	Tipp City, OH	3/12/90	1/02/90	24,113	Electric Motors.
Blackbourn, Inc. (workers)	Olivia, MN	3/12/90	2/22/90	24,114	Binders & Tape Packages.
Boorum & Pease Co. (UPIU)	Brooklyn, NY	3/12/90	2/20/90	24,115	Books.
CIBA-GELGY Corp. (USW)	Glens Falls, NY	3/12/90	3/01/90	24,116	Paint Pigments.
Collins & Aikman Corp. (workers)	Clinton, OK	3/12/90	2/21/90	24,117	Automobile Carpet.
Collins & Aikman Mfg. (workers)	Plattsburg, NY	3/12/90	2/28/90	24,118	Wall Paper.
Crown Store & Equipment Co. (workers)	New Castle, VA	3/12/90	1/23/90	24,119	Display Equipment.
El Dorado Motor Corp. (workers)	Minneapolis, KS	3/12/90	2/12/90	24,120	Motor Homes.
Fiskars (workers)	Portland, OR	3/12/90	2/08/90	24,121	Cutlery.
General Electric Power Delivery Group (IUE)	Pittsfield, MA	3/12/90	2/26/90	24,122	Generator Components.
Harry Schleifer & Sons, Inc. (UFCW)	New York, NY	3/12/90	3/01/90	24,123	Coats.
Irvin Industries, Inc. (workers)	Richmond, KY	3/12/90	3/01/90	24,124	Canisters.
Koret of California, Inc. (workers)	San Francisco, CA	3/12/90	2/16/90	24,125	Womens' Sportswear.
Leacock & Co., Inc. (company)	Secaucus, NJ	3/12/90	2/20/90	24,126	Table Linens.
Motorola Communication & Electronics, Inc. (workers).	Dallas, TX	3/12/90	2/12/90	24,127	Radios & Telephones.
New River Industries (workers)	Radford, VA	3/12/90	2/27/90	24,128	Lining Fabric.
North American Refractories (USWA)	Mt. Union, PA	3/12/90	2/23/90	24,129	Brick.
(The) Pay Telephone Co. (company)	Shrewsbury, NJ	3/12/90	3/01/90	24,130	Pay Telephones.
Playskool, Inc. (GMP Union)	Lancaster, PA	3/12/90	3/03/90	24,131	Toys.
Progressive Dynamics, Inc. (company)	Marshall, MI	3/12/90	3/02/90	24,132	Lights for Recreational Vehicles.
Rine Drilling (workers)	Woodward, OK	3/12/90	2/23/90	24,133	Oil & Gas.
Smith Culvert Co., Inc. (workers)	Enid, OK	3/12/90	2/20/90	24,134	Steel Pipes.
Swainsboro Sportswear, Co. (workers)	Swainsboro, GA	3/12/90	2/28/90	24,135	Mens' & Boys' Shirts.
Tec-Con Contractors, Inc. (company)	E. Orange, NJ	3/12/90	2/17/90	24,136	Public Works Construction.
Toastmaster, Inc. (workers)	Macon, MI	3/12/90	2/22/90	24,137	Toasters.
Trico Industries, Inc. (workers)	Tulsa, OK	3/12/90	2/28/90	24,138	Oilfield Equipment.
Ward Drilling Co. (workers)	Enid, OK	3/12/90	2/26/90	24,139	Drilling.

[FR Doc. 90-6706 Filed 3-23-90; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; Announcement of Proposed Noncompetitive Grant Awards

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of intent to award noncompetitive grants.

SUMMARY: The Employment and Training Administration (ETA) announces its intent to modify our current grants on a noncompetitive basis to organizations listed in this Notice for

the provision of specialized services under the authority of the Job Training Partnership Act (JTPA).

DATES: It is anticipated that these grant agreements will be executed by April 6, 1990, and will be funded for one year. Submit comments by 4:45 p.m. (Eastern Time), on April 10, 1990.

ADDRESSES: Submit comments regarding the proposed assistance awards to: U.S. Department of Labor, Employment and Training Administration, Room C–4305, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Betty Koonce; Reference FR–DAA–002.

SUPPLEMENTAL INFORMATION: The Employment and Training Administration (ETA) announces its intent to modify our current grants with the organizations listed in this notice. These Public Interest Groups will provide support, technical assistance, and information exchange functions with and among their constituents memberships, e.g., city officials, Governors and States, county officials, and State legislatures. Their specialized expertise has enabled them to establish an ongoing relationship with ETA in providing services to various client groups within the employment and training system. Fundings for these activities are authorized by the Job Training Partnership Act (JTPA), as amended, Title IV-Federally Administered Programs.

The proposed grant recipients and their respective funding levels are as follows:

Public interest groups	Funding level
National Conference of Black Mayors	$206,000
National Association of Counties	360,500
National Conference of State Legislature	256,837
National Governor's Association	321,500
U.S. Conference of Mayors	257,500

Signed at Washington, DC, on March 12, 1990.

Robert D. Parker,

ETA Grant Officer.

[FR Doc. 90–6703 Filed 3–23–90; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–90–42–C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Montcoal No. 7 Mine (I.D. No. 46–01495) located in Raleigh County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. Prohibition of the use of the railcar for loading and haulage of the shearer results in the exposure of personnel to more hazardous methods of removal, such as hoisting or sheaving with wire ropes or lifting with jacks. These procedures expose workers to risks of being struck by equipment.

3. As an alternate method, petitioner proposes to use a non-permissible haulage motor, rail and trolley wire within 150 feet of the longwall face for the purpose of removing the shearer from the faceline.

4. Petitioner states that strict compliance with 30 CFR 75.1002 causes a diminution of safety of the workers at the mine, whereas the alternative method proposed will at all times guarantee a greater level of protection to the workers.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 25, 1990. Copies of the petition are available for inspection at that address.

Dated: March 16, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90–6707 Filed 3–23–90; 8:45 am]

BILLING CODE 4510–43–M

Occupational Safety and Health Administration

Minnesota State Standards; Notice of Approval

Background

Part 1953 of title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan, which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On June 8, 1973, notice was published in the **Federal Register** (38 FR 15076) of the approval of the Minnesota plan and the adoption of subpart N of part 1952 containing the decision.

The Minnesota plan provides for the adoption of Federal standards as State standards by reference after an opportunity for public comment and/or requests for public hearings. Federal regulations (29 CFR 1953.22 and 23) require that States respond to the adoption of comparable standards within six months of OSHA publication in the **Federal Register**, and within 30 days for emergency temporary standards. Although adopted Federal standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in part 1953, they are enforceable by the State prior to Federal review and approval. By notice published on February 23, 1987, and June 29, 1987, in the Minnesota State Register (cited as 12 S.R. 484 and 2402) and incorporated as part of the plan, Minnesota has adopted State standards comparable to:

1. The amendment, 29 CFR 1910.430, Commercial Diving, Final Rule, as published in the **Federal Register**, Volume 51, No. 181, dated September 16, 1986.

2. The amendment, 29 CFR 1910.145, Accident Prevention Tags, Final Rule, as published in the **Federal Register**, Volume 51, No. 182, dated Septemer 19, 1986.

3. Amendments, 29 CFR 1910.68, 1910.106, 1910.157, 1910.179. 1910.180, 1910.217, 1910.218, 1910.252, 1910.440, 1915.113, and 1915.172, Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks, Final Rule, as published in the **Federal Register**, Volume 51, No. 188, dated September 29, 1986.

4. A new standard, Hazardous Waste Operations and Emergency Response, 29 CFR 1910.120, Interim Final Rule, as published in the **Federal Register**, Volume 47, No. 244, dated December 19, 1986.

5. Corrections, Hazardous Waste Operations and Emergency Response, 29 CFR 1910.120, Interim Final Rule, as published in the **Federal Register**, Volume 52, No. 85, dated May 4, 1987.

6. A new standard, Field Sanitation, Final Rule, as published in the **Federal Register**, Volume 52, No. 84, dated May 1, 1987.

These standards, which are contained in the Minnesota Occupational Safety and Health Codes and Rules, were promulgated after notice was published offering an opportunity for public comments and/or requests for public hearings. No written comments or requests for hearing on objections were received concerning the proposed standards. The order of adoption was published in the State Register (12 S.R. 484 and 2402) on February 23, 1987, and June 29, 1987, pursuant to Minnesota Statute 182.655 (1974).

Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards and Amendments are identical to the Federal standards and accordingly are approved.

Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Room 3244, Chicago, Illinois, 60604; State of Minnesota, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota, 55101; and the Office of the Directorate of Federal Compliance and State Programs, Room N3608, 200 Constitution Avenue, NW., Washington, DC 20210.

Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process, or for other good cause which may be consisent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Minnesota State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation; and

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be necessary.

This decision is effective March 26, 1990.

Authority: (Sec.18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Chicago, Illinois this 5th day of April, 1989.

Michael G. Connors,

Regional Administrator.

[FR Doc. 90-6708 Filed 3-23-90; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: 10 CFR part 32—Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Reports are submitted as events occur. Applications for new licenses and amendments are submitted only once. Applications for renewal licenses are submitted every five years.

5. Who will be required or asked to report: Applicants for or holders of a license to manufacture or initially transfer certain items containing byproduct material.

6. An estimate of the number of responses: 11,825.

7. An estimate of the total number of hours needed to complete the requirement or request: An average of 0.75 hours per response and 12.1 hours annually per recordkeeper. The total annual industry burden is estimated to by 11,480 hours.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: 10 CFR part 32 prescribes requirements for the issuance of specific licenses to persons who manufacture or initially transfer items containing byproduct material for sale or distribution to exempt persons or general licensees, and requirements for licenses to introduce byproduct material into a product or material.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW., Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150-0001), Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton (301) 492-8132.

Dated at Bethesda, Maryland, this nineteenth day of March 1990.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 90-6768 Filed 3-23-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-249]

Commonwealth Edison Company, Dresden Nuclear Power Station, Unit 3; Notice of Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-25 issued to Commonwealth Edison Company, for operation of the Dresden Nuclear Power Station, Unit No. 3, located in Grundy County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would consist of a change to the operating license to extend the expiration date of the operating license to January 12, 2011 for Dresden Unit 3. The proposed license amendment is responsive to the licensee's application dated September 29, 1986. The Commissions' staff has

prepared an Environmental Assessment of the proposed action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Change in Expiration Date of Facility Operating License DPR–25. Commonwealth Edison Company, Dresden Nuclear Power Station, Unit No. 3, Docket Number 50–249, dated February 26, 1990."

Summary of Environmental Assessment

The Commission's staff has reviewed the potential environmental impact of the proposed change in the expiration date of the Operating License for the Dresden Nuclear Power Station, Unit No. 3. This evaluation considered the previous environmental studies, including the Final Environmental Statement for the Dresden Station dated November 1973, and more recent NRC policy.

Radiological Impacts

The staff concludes that the Exclusion Area, the Low Population Zone and the nearest population center distances will likely be unchanged from those described in the November 1973 Final Environmental Statement. Dresden Station is located in a relatively low populated area. The low population zone (LPZ) is approximately the area enclosed by an 8000 meter (5-mile) radius from the plant. The population in the area surrounding the site has grown at a somewhat faster rate than projected in the FES for the year 1980 (10,415 compared to 8,048 projected). Current projections of population within the 50-mile radius of the station are lower than the projection in the FES. The FES population projection within the 50-mile radius for 1980 was 8,070,978 which is 28 percent greater than the 1980 census figures for the area which total 6,301,641. The FES population projection within the 50-mile radius for the year 2000 was 12,900,000. The current population prediction (based on projections from the Northeast Illinois Planning Commission, State of Illinois Bureau of the Budget, and Northeast Indiana Planning Commission) to the year 2010 is 7,366,584 which is less than the FES 50-mile projection for both 1980 and 2000. There are no expected changes to the site boundary, low population zone, or population center distances. This small increase in the number of people living within the 5-mile zone, the lower than projection population increase within the 50-mile radius, and the continuing rural nature of the area indicate that the numbers of people living around and within the vicinity of the plant should pose no problem to the proposed extension of the operating license.

The additional period of plant operation would not significantly affect the probability or consequences of any reactor accident. Station radiological effluents to unrestricted areas during normal operation have been well within Commission regulations regarding as-low-as-is-reasonably-achievable (ALARA) limits, and are indicative of future releases. The proposed additional years of reactor operation do not increase the annual public risk from reactor operation.

With regard to normal plant operation, the occupational exposures for the Dresden Nuclear Station have closely followed the national average for boiling water reactors. The licensee is striving for dose reductions in accordance with ALARA principles and the staff expects further reductions to be achieved using advanced technologies and equipment that will likely be available.

Accordingly, annual radiological impacts on man, both offsite and onsite, are not more severe than previously estimated in the FES, and our previous cost-benefit conclusions remain valid.

The environmental impacts attributable to transportation of fuel to and waste from the Dresden Nuclear Station with respect to normal conditions of transport and possible accidents in transport, would be bounded as set forth in Summary Table S–4 of 10 CFR part 51.52. The values in Table S–4 would continue to represent the contribution of transportation to the environmental costs associated with plant operation.

Non-Radiological Impacts

The Commission has concluded that the proposed extension will not cause a significant increase in the impact to the environment and will not change any conclusions reached by the Commission in the FES.

Finding of No Significant Impact

The Commission has reviewed the proposed change to the expiration date of the Dresden Nuclear Station, Unit 3, facility operating license relative to the requirements set forth in 10 CFR part 51. Based upon the environmental assessment, the staff concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see (1) the application for amendment dated September 29, 1986, (2) the Final Environmental Statement for the Dresden Nuclear Power Station, Unit No. 3, issued November 1973, and (3) the Environmental Assessment dated February 26, 1990. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC., and at the Morris Public Library, 604 Liberty, Morris, Illinois 60450.

Dated at Rockville, Maryland, this 26th day of February 1990.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Acting Director, Project Directorate III–2, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–6682 Filed 3–22–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–461]

Illinois Power Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the Illinois Power Company (IP), and Soyland Power Cooperative, Inc. (the licensees) for the Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

The licensees have requested an amendment that would revise Technical Specification Table 3.3.7.5–1 to allow inoperability of primary containment isolation valve position indication when the valve/valve operator is electrically deactivated in the isolated position.

This revision to the Clinton Power Station's license would be made in response to the licensee's application for amendment dated February 5, 1988.

The Need for the Proposed Action

Pursuant to 10 CFR 50.50, IP, et al. have proposed an amendment to Facility Operating License No. NPF–62 which consists of changes to the Technical Specifications. Technical Specification Section 3.6.4 allows the deactivation of a Containment Isolation Valve in the isolated position as one method of providing acceptable containment isolation for a given penetration. When this action is taken and a motor-

operated CIV is electronically deactivated, its breaker is usually switched to the "OFF" position. Consequently, power is lost to the position indication circuit and all position indication in the main control room is lost. However, Technical Specification Section 3.3.7.5 currently makes no provision for the loss of indication that occurs when the valve is electrically deactivated in the isolated position. The current ACTION requires a plant shutdown after 7 days if all position indication to a primary CIV is lost. The intent of Technical Specification 3.3.7.5, with regard to CIV position indication, is to ensure that indication is available to control room operators for assessing containment integrity. This intent can be satisfied if the affected valve(s) are placed in the isolated position prior to being deactivated and if appropriate administrative controls are in place to ensure that the control room operators can determine the valve's position if needed. Intermittent opening of these valves under administrative controls should also be allowed since such a provision is currently in Technical Specification 3.6.4.

Environmental Impacts of the Proposed Action

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because, under the provisions of the proposed change, the affected valve(s) will be in the isolated/conservative position (except as limitedly provided). With the proposed change, a means still exists that allows plant operators to know the position of an affected containment isolation valve(s). The proposed change is consistent with the provisions of Technical Specification 3.6.4, "Containment Isolation Valves."

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new modes of operation with respect to existing requirements and provisions contained in the Technical Specifications. The proposed change does not involve any changes to the plant's as-built design.

The proposed change does not involve a significant reduction in a margin of safety because this change does not reduce the capability of assessing containment isolation during accident conditions or when otherwise required.

The Commission has determined that potential radiological releases during normal operations, transients, and for accidents would not be increased. With regard to non-radiological impacts, the proposed amendment involves systems located entirely within the restricted area as defined in 10 CFR part 20. They do not affect non-radiological plant effluents and have no other environmental impact. They do not affect non-radiological plant effluents and have no other environmental impact. Therefore, the staff also concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

Accordingly, the Commission findings in the "Final Environmental Statement related to the operation of Clinton Power Station, Unit No. 1" dated May 1982 regarding radiological environmental impacts from the plant during normal operation or after accident conditions, are not adversely altered by this action. IP is committed to operate Clinton, Unit 1 in accordance with standards and regulations to maintain occupational exposure levels "as low as reasonably achievable."

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 27, 1988 (53 FR 19359). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Actions

Since the Commission has concluded that there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impact need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Nuclear Regulatory Commission's Final Environmental Statement for the Clinton Power Station, Unit 1, dated May 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensees' request of February 5, 1988 and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement of the proposed license amendment.

Based upon this environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated February 5, 1988 and the Final Environmental Statement for the Clinton Power Station dated May 1982, which are available for public inspection at the Commission Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland this 19th day of March 1990.

For The Nuclear Regulatory Commission.

John W. Craig,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 90–6767 Filed 3–23–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Investigation No. 337–TA–290]

Request for Public Comments in Connection With Presidential Review of Exclusion Order and Cease and Desist Orders Under Section 337

AGENCY: Office of the United States Trade Representative.

ACTION: Request for Public Comments.

SUMMARY: Request for written comments on the limited exclusion order and cease and desist orders issued by the U.S. International Trade Commission (USITC) in *Certain Wire Electrical Discharge Machining Apparatus and Components Thereof*, Inv. No. 337–TA–290.

DATES: All submissions must be received or or before close of business, Wednesday, April 11, 1990.

ADDRESSES: 600 17th Street NW., room 523, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Catherine Field, Associate General Counsel, Office of the U.S. Trade Representative. (202) 395–3432.

SUPPLEMENTARY INFORMATION: On March 9, 1990, the USITC referred to the

President for policy review its determination that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), in the importation into the United States, and in the sale, of certain wire electrical discharge machining apparatus manufactured abroad by Sodick Co. Ltd. of Japan (Sodick), that the infringe claims of U.S. patent 3,928,163 which is owned by A.G. fur Industrielle Elektronik. As a result of this finding, the USITC issued a limited exclusion order directing the U.S. Customs Service to exclude from entry into the United States wire electrical discharge machining apparatus manufactured by Sodick. The USITC also issued four cease and desist orders prohibiting Sodick, Inc. (USA), Bridgeport Machines, KGK International Corp. and Yamazen U.S.A., Inc. from marketing, distributing, offering for sale, selling or otherwise transferring such apparatus.

Under section 337(j), the President may, for policy reasons, disappprove the USITC's determination within 60 days following receipt of the determination and record. If disapproved by the President, the determination, and any order issued under its authority, would be without force or effect. The President also may approve the Commission's determination rendering the determination and order final on the date that the Commission receives notice of the approval. If the President takes no action to approve or disapprove the determination and order, they become final automatically following the 60-day review period. Interested parties may submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding this investigation. Parties commenting on domestic policy issues should specifically refer to the portion of the USITC's record related to that issue. If the domestic policy issue was not raised before the USITC, parties should provide a rationale for that omission.

REQUIREMENTS FOR PUBLIC COMMENTS: Comments may not exceed 15 letter-sized pages, including attachments. Parties must provide twenty copies of the submission to Ms. Carolyn Frank, Secretary, Trade Policy Staff Committee, room 523, 600 17th Street NW., Washington, DC 20506.

Joshua B. Bolten,

General Counsel.

[FR Doc. 90-6738 Filed 3-23-90; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27809; File No. SR-Amex-90-01]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of Proposed Rule Change Relating to Accelerated Comparison of Equity Transactions

March 16, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 24, 1990, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change (File No. SR-Amex-90-01) as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. This order approves the proposal on a temporary basis through May 31, 1990.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change describes the operational procedures to be followed under the Exchange's Intra-Day Comparison System ("IDC") in processing uncompared transactions in stocks traded on the Exchange. The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

As a result of Amex's participation in an industry effort to accelerate the comparison of equity transactions, on March 8, 1989, the Exchange filed with the Commission new Amex Rule 719 (File No. SR-Amex-89-5), requiring that within eighteen months from Commission approval transactions effected on the Exchange be compared or otherwise closed out within one business day from the date of trade (T+1). On August 18, 1989, the Commission approved Rule 719 on a temporary basis [1] and on December 31, 1989, extended that temporary approval through March 31, 1990.[2]

For the purpose of accelerating the comparison of equity transactions, the Exchange has developed IDC, an electronic system that was designed to accomplish several major business objectives during the next three to four years. The primary and most crucial of these objectives is to deliver an automated, flexible and efficient system for the capture, comparison and processing of trades. IDC, by its very operation, will reduce market risk and exposure for the Exchange and its membership.

In its initial stages, IDC will be operational for equities and will serve as an on-line, post-trade correction processing system with electronic input via terminal screens located in members' offices and other sites. Additional enhancements to functionality will concentrate on expanding the number of users and locations. The next stage of IDC will focus on post-trade processing of options. The scheduled development and functionality will be similar to that for equities.

Once IDC has become fully operational for equities and options in a T+1 comparison (post-trade) processing mode, the Exchange intends to enhance the system further to provide for the "real time" collection and distribution of actual trade data (on-line) during the trading day. This will mean that: (1) An increased number of locked-in trades will be directly submitted to IDC; (2) resolution of uncompared trades will take place during the trading day as opposed to after hours; (3) linkages to member firms' mainframe computers will be established; and (4) data/file sharing between IDC and other Amex systems will be available. Another benefit will be the eventual elimination of paper input and manual processing, which should increase the efficiency and accuracy of Amex trade data and thereby contribute to further reducing risk and exposure to Amex members,

[1] *See* Securities Exchange Act Release No. 27152 (August 18, 1989), 54 FR 39238.

[2] *See* Securities Exchange Act Release No. 27582 (December 29, 1989), 55 FR 1133.

member organizations, and parties facilitating their trades.

Concerning IDC's capacity, Amex has advised the Commission that IDC's hardware and software are adequate for Amex's level of equity activity. Moreover, Amex states that IDC is not connected with any other Amex computer system and that accelerating to a T+1 correction cycle would not affect any other system and would not affect the capacity of IDC itself. Also, Amex states that inasmuch as IDC uses private lines, security is not an issue.[3]

The proposed rule change submitted herein reflects the movement for resolution of uncompared equity transactions from the T+3 timetable to a T+1 timetable, as proposed by the Amex Rule 719.[4] Amex will submit additional rule proposals, concerning further enhancements to IDC, to the Commission after implementation of the T+1 resolution of uncompared trades. This phased-in implementation is intended to minimize disruption to Amex members, member organizations and their clearing firms and enable them to become accustomed to the new time frames gradually.

Initially, Amex will charge no fees to its membership for use of the IDC system. Amex represents in the filing that any fee schedule that it may implement in the future will be filed with the Commission prior to its implementation.

The proposed IDC operational procedures for processing uncompared transactions in stocks traded on the Exchange are essentially the same procedures presently in use, but with different time frames to accommodate the T+1 timetable. Each Amex member will continue to submit original trade input to National Securities Clearing Corporation ("NSCC") on the evening of trade date. NSCC then will match all input and provide "contract sheets" to Amex clearing members and provide a results-of-comparison ("ROC") file to Amex's IDC.[5]

IDC will begin operations once the ROC file has been received form NSCC on the morning of T+1. IDC will extract from this file all uncompared trades and certain other data. It then will create an ongoing file on such items that will be accessible to Amex members.[6]

Amex members will make trade corrections through IDC. With the use of IDC terminal screens, Amex members will be able to effect corrections by deleting, modifying, and adding trade data. These corrections will be reported by Amex to NSCC at the close of day for the production of NSCC's supplementary contract sheets.[7] All unmatched items that have not been reconciled either will be corrected through IDC or remain in IDC indefinitely.[8]

Amex believes that reducing the time frames for resolution of uncompared trades will improve the efficiency of equity comparison and clearance and minimize the exposure of members and member organizations to risk due to market fluctuations on uncompared or questioned trades. Amex states in its filing that it will monitor closely, during all phases, the results of shortening the time frames for resolution of uncompared trades until such time as the Exchange is satisfied that no significant operational problems exist. Implementation of the accelerated time frames will be done in coordination with the NSCC's development and implementation of its comparison redesign (File No. SR-NSCC-89-04).[9]

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Amex requests that the proposed rule change be given accelerated effectiveness, prior to the thirtieth day after the date of publication of notice of filing, pursuant to section 19(b)(2) of the Act. Amex states that its efforts to reduce the time frames for comparison of equity transactions are being effected in coordination with the NSCC's industry-wide schedule for comparison redesign.[10] Amex further states that the accelerated approval is necessary so that it can shorten its correction cycle for uncompared trades and, thus, be in a position to participate as the scheduled industry time frames for reducing trade correction cycles to T+1 are implemented.

IV. Discussion

The Commission believes the proposal is consistent with the Act. The proposal would authorize the use of IDC to match uncompared trades in equity securities. The proposal, moreover, is part of an industry-wide effort by NSCC, Amex and other marketplaces to improve and accelerate trade comparison.[11]

The Commission notes that section 17A(a)(1) of the Act expressly contemplates the goal of prompt and efficient clearance and settlement of securities transactions and the use of automation to achieve this goal. Congress stated in that provision that inefficient procedures for the clearance and settlement of securities transactions impose unnecessary risks and costs on investors and that prompt and accurate clearance and settlement are necessary for investor protection. Congress further stated in section 6(b)(5) of the Act that the rules of securities exchanges should be designed to promote the prompt and accurate clearance and settlement of securities transactions.

IDC, an automated trade correction system, replaces Amex's less efficient manual system. As a result, IDC should

[3] *See* letter from John L. Diesem, Senior Vice President, Systems Technology Division, Amex, to Judith Poppalardo, Branch Chief, SEC, dated February 23, 1990.

[4] *See, supra,* notes 1 and 2.

[5] A "contract sheet" is a NSCC daily report provided by NSCC to its members on the morning of T+1 that lists the previous day's transactions as: (1) Compared trades, (2) uncompared trades, and (3) advisory trades. *See* NSCC *Rules and Procedures,* Procedures, Sect. II.B.1. at 2-3 (December 8, 1989).

The ROC file (a trade comparison summary) is issued daily by NSCC to Amex on the morning of T+1. *See* Amex "IDC User's Guide" at 3.

[6] *See* Amex "IDC User's Guide" at 3-4.

[7] On the evening of T+1, NSCC produces "supplemental contact lists," which show all compared trade data resulting from corrections submitted on T+1. *See* NSCC *Rules and Procedures,* Procedures, Sect. II.C.2.e. at 8 (December 8, 1989).

[8] Amex states in its filing that the primary focus for input of corrections to IDC will be through the IDC terminals located in Amex's trade reconciliation room, better known as the "Rejected Option Trade Notice" ("ROTN") room at Amex's offices at 22 Thames Street, New York City.

[9] *See* Securities Exchange Act Release No. 27074 (July 28, 1989), 54 FR 32405 [File No. SR-NSCC-89-04].

[10] *See id.*

[11] *See e.g.,* Securities Exchange Act Release Nos. 27152 (August 18, 1989), 54 FR 39238, 27582 (December 29, 1989), 55 FR 1133 [File No. SR-Amex-89-05]; 26627 (March 14, 1989), 54 FR 11470 [File No. SR-NYSE-88-36]; 27074 (July 28, 1989), 54 FR 32405 [File No. SR-NSCC-89-04].

reduce substantially the time and expense needed to correct uncompared trades. Accordingly, the Commission believes the proposal will contribute significantly to the prompt and efficient clearance and settlement of securities transactions, and that it should be approved.

Amex's proposals, moreover, is not a matter of first impression for the Commission. NASDAQ, Inc., with Commission approval, has been using its Trade Acceptance and Resolution System ("TARS") since 1986,[12] and NYSE's Correction System, with Commission approval, became operational in the spring of 1989.[13] NASDAQ'S TARS and NYSE's Correction System, like Amex's proposed IDC, are automated facilities that permit members, using terminal screens, to resolve uncompared trades.

Because of the current industry effort to accelerate trade correction programs from T+2 to T+1, and because Amex already has directed substantial resources toward that effort, the Commission believes that "good cause" exists, pursuant to section 19(b)(2) of the Act, for approving this proposal on a temporary basis prior to the thirtieth day after publication of notice in the **Federal Register.**

Nevertheless, the Commission believes that interested members of the public should be afforded an opportunity to comment on rule proposals prior to their permanent approval. This is particularly true, the Commission believes, for major proposals such as IDC that will have substantial effects on the marketplace. A temporary approval order will provide potential commentators with a period in which to assess the efficiency of the new program.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commisison and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-90-01 and should be submitted by April 16, 1990.

VI. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act, particularly sections 6(b)(5) and 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the above-mentioned proposed rule change [File No. SR-Amex-90-01] be, and hereby is, approved on a temporary basis through May 31, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority (17 CFR 200.3(a)(12)).

Jonathan G. Katz,

Secretary.

[FR Doc. 90-6716 Filed 3-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27801; File No. SR-DTC-90-03]

Self-Regulatory Organizations; The Depository Trust Company; Filing and Immediate Effectiveness of a Proposed Rule Change Concerning Revised Service Fees

March 14, 1990.

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 14, 1990, the Depository Trust Company ("DTC") filed with the Securities Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is filing herewith the changes in the fee schedule for DTC services which are listed on the Annex hereto.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change, which will be effective for services provided after February 28, 1990, is to adjust the fees charged for various services to bring them closer to, or to, their respective estimated service costs for 1990.

Prior to 1985, DTC attempted to relate service fees to their respective service costs at intervals of several years. During these intervals, unit service costs could diverge substantially from current fees, necessitating large changes when service fees were realigned with their costs. To prevent such divergence after adopting major fee changes at its December 1985 meeting which moved toward cost-based fees, the DTC Board then adopted and announced a new procedure, as follows:

In adopting new fees, the Board also declared its belief and intention that DTC should revise its basic fee schedule each year so that, through modest changes gradually over approximately five years, DTC service fees will be based on service cost in the absence of policy considerations which would justify limited exceptions. Large changes in service fees after intervals of several years would thereby be avoided.

The present fee schedule for DTC services, which became effective in early 1989, resulted from the second of those annual revisions. Continuing to follow the procedure enunciated above, the depository's Board recently completed a review of DTC's estimated service costs for 1990 and has adopted modest changes in a number of major service fees designed to move those fees closer to estimated 1990 service costs.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations

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[12] TARS was designed to assist its subscribers in resolving and reducing their uncompared and advisory over-the-counter trades that were being processed through participating clearing corporations. *See* NASD Market Services, Inc., *Trade Acceptance and Reconciliation Service User Guide* (May 20, 1986).

[13] *See* Securities Exchange Act Release No. 26773 (May 1, 1989), 54 FR 20227 [File No. SR-NYSE-89-03].

thereunder applicable to DTC because the fees will more equitably be allocated among DTC participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC informed participants and other users of its services of the proposed rule change by a memorandum dated January 12, 1990 entitled "1990 Revisions of DTC Service Fees". Because participants have supported gradual moves toward cost-based fees in the past and because, overall, the subject fee changes are modest, a formal period for participant comment was not considered necessary this year.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4 because the proposed rule change changes fees charged for DTC services. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR–DTC–90–03 and should be submitted by April 12, 1990.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

BILLING CODE 8010-01-M

1990 REVISED DTC SERVICE FEES

Service	Present Fee			Revised Fee		
A. Registered Securities						
I. Deposits						
. The fee for deposits of certificates in active issues is determined by the time of receipt by DTC: (1)						
Zone A - 4:00 PM to 8:00 PM (Prior PM)	$ 1.65	$1.76 includes certificate charge*	$2.12*	$1.80	$1.91 includes certificate charge*	$2.31*
Zone B - 7:30 AM to 10:00 AM	$ 2.45			$2.60		
Zone C - 10:00 AM to 11:00 AM	$ 4.65			$4.80		
Zone D - 11:00 AM to 12:00 Noon	$10.00			No Change		
Zone E - 12:00 Noon to 1:00 PM	$40.00			No Change		
. The fee for deposits of certificates in less-active issues** is determined by the time of receipt by DTC: (1)						
Zone A - 4:00 PM to 8:00 PM (Prior PM)	$ 2.50	$2.69 includes certificate charge*		$2.75	$2.94 includes certificate charge*	
Zone B - 7:30 AM to 10:00 AM	$ 3.30			$3.55		
Zone C - 10:00 AM to 11:00 AM	$ 5.50			$5.75		
Zone D - 11:00 AM to 12:00 Noon	$10.60			No Change		
Zone E - 12:00 Noon to 1:00 PM	$40.60			No Change		
. A certificate charge per deposit per group of 10 certificates beyond the first 10 certificates in addition to the Zone fee	$.30 per group of 10 certificates beyond the first 10 certificates			No Change		

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee
. Legal Deposits			
Full-Service Deposit Fee (includes examination by DTC)	$ 4.50 per deposit		$4.43 per deposit
Telephone Notification Fee (optional addition available for Full-Service only)	$ 4.20 per deposit		No Change
Basic Deposit Fee (no examination by DTC)	$ 3.15 per deposit		$3.08 per deposit
Tracking Service (available for both Full and Basic Service)	$ .20 per deposit		No Change
. A record date deposit surcharge for bond interest, cash and stock dividends and proxy	$ 4.00 per record date deposit		$3.15 per record date deposit
. Rejects			
For each deposit corrected or returned to a Participant because of error:			
From 0 to 5%	$20.00 per reject	$20.89*	No Change
Over 5%	$30.00 per reject		
II. Withdrawals-by-Transfer (WTs)			
. For each assignment in an active issue submitted on PTS, API or CCF	$ 1.65 per assignment		$1.90 per assignment
. For each assignment in an active issue concluding in direct mail	$ .85 per assignment(2)		$1.10 per assignment(2)
. For each assignment in a less-active issue** submitted on PTS, API or CCF	$ 3.45 per assignment		$3.55 per assignment
. For each assignment in a less-active issue** concluding in direct mail	$ 2.65 per assignment(2)		$2.75 per assignment(2)
. Rejects			
For each transfer corrected or returned to a Participant because of error:			
From 0 to 5%	$20.00 per reject	$20.00*	No Change
Over 5%	$30.00 per reject		

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee
III. Urgent Withdrawals			
. For each Certificate-on-Demand (COD) withdrawal requested on an overnight basis:			
Submitted by PTS	$10.25 per withdrawal		$11.25 per withdrawal
Submitted by paper	$11.75 per withdrawal		$12.75 per withdrawal
. For each Rush Transfer requested	$22.50 per assignment		No Change
. Rejects			
For each urgent withdrawal returned to a Participant because of error:			
From 0 to 5%	$20.00 per reject	$20.00*	No Change
Over 5%	$30.00 per reject		
IV. Collateral Loans (Pledges/Releases)			
. For each security (line item) pledged, released or substituted via PTS	$ .17 per line item payable by both the pledgee and pledgor in each transaction		$ .13 per line item payable by both the pledgee and pledgor in each tranaaction
. Rejects			
For each pledge or release corrected or returned to a Participant because of error:			
From 0 to 5%	$20.00 per reject	$20.00*	No Change
Over 5%	$30.00 per reject		

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
V. Deliveries				
. Deliver orders via CNS	$ .08 for each item delivered or received		No Change	
. Deliver orders via ID System	$ .21 for each item delivered or received		$ .19 for each item delivered or received	
. Deliver orders via PTS, API or CCF				
For each deliver item presented				
Prior PM	$ .20 to the deliverer		$ .19 to the deliverer	
AM opening to 1:15 PM	$ .45 to the deliverer		$ .44 to the deliverer	
	$ .30 for each item received (regardless of time)	$ .34*	$ .29 for each item received (regardless of time)	$ .33*
VI. SDFS Deliveries				
. Deliver orders via PTS, API or CCF				
For each deliver item presented				
Prior PM	$1.45 to the deliverer		$1.80 to the deliverer	
AM opening to 2:30 PM	$1.70 to the deliverer	$1.62*	$2.05 to the deliverer	$1.97*
	$1.55 for each item received		$1.90 for each item received	
. Deliver orders via ID System	$1.41 for each item delivered or received		$1.80 for each item delivered or received	
VII. Payment Order Service				
. For each Premium Payment Order (PPO) or Securities Payment Order (SPO) processed	$ .20 for each item delivered or received		$ .16 for each item delivered or received	

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

	Service	Present Fee		Revised Fee
VIII.	ID Service			
	. For each confirm distributed by paper, tape, PTS, CCF or dial-in terminal	$.18 to broker (and $.18 for any interested party), $.18 to clearing agent if agent requests confirm; $.18 to investment manager**** for each confirm received, whether or not affirmed		No Change
	. For each confirm transmitted in magnetic tape form	$.33 per confirm, plus telephone line costs		No Change
	. For each confirm transmitted by facsimile device	$.38 per confirm, plus telephone line costs	$.30 includes reports*	No Change
	. For each Pre-Authorized Delivery Quantity (PDQ) Delivered/Not Delivered and Received/Not Received Report line item	$.07 to the deliverer and $.07 to the receiver		No Change
	. For each Unaffirmed Report line item	$.07 to the broker		No Change
	. For each Cumulative and Daily Eligible Trade Report line item	$.07 to broker and clearing agent		No Change
	. For each Daily Eligible Trade Report line item	$.07 to broker and for reports received by any interested party		No Change
	. For each Ineligible Trade Report line item	$.07 to broker and clearing agent and $.07 to broker for reports received by any interested party		No Change

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
IX. Long Position				
. For each active issue monthly (for registered corporate issues when a daily average of more than 15 Participants have position; and for registered municipal issues when a daily average of more than 2 Participants have position)	$ .53 per issue		$ .51 per issue	
. For each less-active registered corporate issue monthly (when a daily average of 15 or fewer Participants have position)	$ .78 per issue		$ .76 per issue	
. For each less-active registered municipal issue monthly (when a daily average of 1 or 2 Participants have position)	$1.28 per issue		$1.26 per issue	
. For each 100 shares or $4,000 bonds (monthly) based on the average daily number of shares or bonds:		$.92*		$.90*
- 0-25 million shares	$ .0052		No Change	
- Excess over 25 million up to 200 million shares	$ .0013		No Change	
- Excess over 200 million up to 300 million shares	$ .000652		No Change	
- Excess over 300 million shares	$ .00005		No Change	
. For each book-entry-only issue (monthly)	$ .35 per issue; no per bond/per share charge		No Change	
. For each Medium-Term Note (MTN) issue (monthly)	$ .60 per issue; no per bond/per share charge		No Change	

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
X. Reorganization				
. Conversions and Warrant Subscriptions For each common stock resulting from the conversion of bonds or preferred stocks/for each instruction submitted				
- From 1 to 400 common shares	Two DO fees, plus: $ 22.00 per transaction minimum; $ .055 per share from 401 to 2,000 shares; $110.00 per transaction maximum	$66.00*	Two DO fees, plus: $ 24.00 per transaction minimum; $ .06 per share from 401 to 2,000 shares; $120.00 per transaction maximum	$72.00*
- 401 to 2,000 common shares				
- 2,001 and over common shares				
. Unit Swingovers	$ 11.00 per swingover instruction plus 3 DO fees		No Change	
. Mandatory Exchanges/Redemptions Corporate issues	$ 29.70 per Participant position		No Change	
Registered municipal issues	$ 23.70 per Participant position plus $ .15 per $1,000 with a $ 70.00 maximum transaction fee (3)	$32.23*	$ 27.70 per Participant position plus $ .25 per $1,000 with a $ 70.00 maximum transaction fee (3)	$41.91*
. Voluntary Exchanges/Tender Offers	$ 32.75 per letter of transmittal		$ 36.75 per letter of transmittal	
. Photocopying of Important Notices previously provided to Participants	None		Upon request: $6.00 per copy	

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
XI. Underwritings				
. Issues Having 1 (one) CUSIP Number	$219.00 plus $ 3.00 per million with a total maximum fee of $2,000 (4) and any unusual expenses		$195.00 plus $ 3.00 per million with a total maximum fee of $2,000 (4) and any unusual expenses	
Book-Entry-Only Issues	$219.00 (4) and any unusual expenses		$195.00 (4) and any unusual expenses	
. Issues Having More Than 1 (one) CUSIP Number	$419.00 plus $ 3.00 per million with a maximum of $2,000 (4) and any unusual expenses	$200.54*	$435.00 plus $ 3.00 per million with a maximum of $2,000 (4) and any unusual expenses	$200.20*
Book-Entry-Only Issues	$419.00 (4) and any unusual expenses		$435.00 (4) and any unusual expenses	
. Certificates of Deposit	$105.00 (4) and any unusual expenses		$ 90.00 (4) and any unusual expenses	
. Medium-Term Notes (MTNs)	$ 20.00 (4) and any unusual expenses per tranche		No Change	

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
XII. Dividends		
. For each cash dividend or interest payment:		
Corporate issues	$ 1.30 per credit (5)	$ 1.30 per credit (5)
Registered municipal issues	$ 1.95 per credit	$ 2.17 per credit
. For each stock dividend payment	$16.00 per credit	$17.50 per credit
. For each Dividend Reinvestment Service instruction to receive stock in lieu of a cash dividend	$33.00 per instruction	$32.00 per instruction
. Photocopying of Cash Adjustment Notices, Share Adjustment Notices, Dividend Cash Settlement Lists and Cash Dividend Record Date Notices previously provided to Participants	None	Upon request: $ 6.00 per copy

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
XIII. PTS Reports				
. Inquiries, Unsolicitated Messages and Messages Participant inquiries about security positions, security eligibility, aged WT instructions, and money settlement figures; messages about activities affecting a Participant's securities, etc.	$ .06 per inquiry or message		No Change	
. Reports Dropped Deliveries Report Dropped COD's Report Cash Dividend Report	$ 30.00 per month per report series plus $ .06 per line	$ .07*	No Change	
. Pre-Update Edits Allows a Participant to edit a DO or withdrawal instruction prior to update by DTC's system	$ .06 per edit		No Change	
. Broadcast To send messages to other Participants in the DTC terminal network	$ .15 per 300 character message per addressee		No Change	
XIV. Usage Charge				
. For each Participant account	$460.00 per month each account up to 5 $140.00 per month each account over 5	$359.83*	$490.00 per month each account up to 5 $170.00 per month each account over 5	$389.83*
. For each non-Participant Pledgee account	$320.00 per month		$350.00 per month	
. For each Pledgee that is also a Participant	$140.00 per month		$170.00 per month	

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
XV. Inter-Depository Interface Fees to Participants		
. RIO delivery	$ .36 to NSCC	No Change
. Third-party delivery	$ .50 surcharge for each item delivered, received or reclaimed on the regular DO fee	$ .46 surcharge for each item delivered, received or reclaimed on the regular DO fee
XVI. Use of DTC Interface Department		
. Participant usage		
Basic services:		
Settlement	$36.00 per month	$40.00 per month
Sorting	$96.00 per month	$92.00 per month
Shipping	$81.00 per month	$80.00 per month
Physical certificate forwarding fees:		
Deposit	$ .25	$ .32
Withdrawal-by-Transfer	$ .25	$ .37
Urgent Withdrawal	$ 1.25	$ 2.35
For preparation or correction of a Shipping Manifest:		
Preparation due to Participant omission	$40.00 per occurrence	No Change
Correction because of error	$20.00 per occurrence	No Change
For withholding material from a Participant's daily shipment from the Interface Department for pick-up at DTC's window	None	$20.00 per occurrence
	None	$40.00 per occurrence, when the Participant fails to pick-up material on a same-day basis

1990 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
. Depository Facility usage Facility usage	To the Facility, $ .65 per deposit with a $100.00 minimum per month plus telephone costs	To the Facility $ .80 per deposit with a $100.00 minimum per month plus telephone costs
Facility deposit	$ .40 per deposit chargeable to the Participant, plus the regular Deposit fee (Zone A) and certificate charge	$ .50 per deposit chargeable to the Participant, plus the regular Deposit fee (Zone A) and certificate charge
XVII. Reconciliation Special Charges . Photocopies of statements or certificates	Upon request - $ 3.00 per copy	Upon request - $ 6.00 per copy
XVIII. Participant Output Services . Eligible Municipal Securities Booklet	$ 15.00 each for the first 30 booklets, $ 10.00 each for the next 470, and $ 7.00 each for quantities over 500	$ 22.00 each for the first 30 booklets, $ 17.00 each for the next 470, and $ 14.00 each for quantities over 500
. Books Closing Report	None	Hard copy: Upon request, $ 25.00 per copy On a daily basis, $200.00 per month Via PTS inquiry: $ .06 per inquiry
. Due Bills Report	None	Hard copy: Upon request, $ 25.00 per copy On a daily basis, $200.00 per month Via PTS inquiry: $ .06 per inquiry

1990 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
XIX. Charges to DTC Passed Through to Users		
. Participant Terminal System (PTS)		
PTS Terminal: A basic configuration comprised of 1 CRT and 1 printer at a Participant's site	$865.00 per month, plus line charge and applicable sales tax	$750.00 (6) per month, plus line charge and applicable sales tax
Dial Back-Up: Equipment and associated telephone lines for use when a Participant's dedicated line is inoperable	$150.00 per month	$165.00 per month
Contingency Site: For CCF, PTS and Mainframe Dual Host installations connections to the DTC contingency site in Philadelphia	$85.00 per month	No Change
PTS Jr. Terminal (To be secured by the Participant)	$100.00 per month access fee, plus line charge and applicable sales tax	No Change
Additional CRT: Each additional CRT added to the basic configuration of 1 CRT and 1 printer (maximum of 5)	$120.00 per month, plus applicable sales tax	$100.00 (6) per month, plus applicable sales tax
Additional Printer: Each additional printer added to the basic configuration of 1 CRT and 1 printer	$290.00 per month, plus applicable sales tax	$260.00 per month, plus applicable sales tax
Installation Charges: One-time vendor charges to install telephone lines, ship equipment and provide DTC training:		
- Dedicated and dial back-up lines	Out-of-pocket expenses	No Change
- Basic PTS configuration	Out-of-pocket expenses	No Change
- Additional CRT	Out-of-pocket expenses	No Change
- Additional Printer	Out-of-pocket expenses	No Change
- Modem	Out-of-pocket expenses	No Change
- Shipping of equipment	Out-of-pocket expenses	No Change
- Training by DTC on site	Out-of-pocket travel expenses	No Change

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
B. Bearer Bond Securities				
I. Deposits (by issue)	$ 4.40 plus a charge after the first 10 certificates of $ 2.00 per group of 10 certificates with a maximum total deposit charge of $12.40.*** Deposits between 12:00 noon and 1 p.m. for same day credit $40.00. A bulk deposit discount is available under certain conditions.	$ 5.28*	$ 3.60 plus a charge after the first 10 certificates of $ 2.00 per group of 10 certificates with a maximum total deposit charge of $11.60*** Deposits between 12:00 noon and 1 p.m. for same day credit $40.00. A bulk deposit discount is available under certain conditions.	$4.48*
. A surcharge per deposit of certificates without CUSIP numbers	$ .65 per deposit		No Change	
. Rejects				
For each deposit corrected or returned to a Participant because of error:				
From 0 to 5%	$20.00 per reject	$30.75*	No Change	
Over 5%	$30.00 per reject			
A surcharge for each deposit of called bearer securities	$35.00 plus a deposit reject fee		No Change	
II. Withdrawals (CODs)				
. Overnight CODs submitted by PTS	$ 9.10 plus a charge after the first 10 certificates of $ 4.00 per group of 10 certificates with a maximum total withdrawal charge of $25.10***	$ 9.84*	$ 9.20 plus a charge after the first 10 certificates of $ 4.00 per group of 10 certificates with a maximum total withdrawal charge of $25.20***	$9.94*

All footnotes in this Annex are found on the last page.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
IV. Interest Payments	$ 4.70 per credit plus $ .05 per $1,000	$ 5.01*	$ 4.78 per credit plus $ .05 per $1,000	$ 5.09*
V. Maturities/Redemptions (Full or Partial)	$28.00 per Participant position plus $ .20 per $1,000 with a $70.00 maximum transaction fee	$37.81*	$28.50 per Participant position plus $ .20 per $1,000 with a $70.00 maximum transaction fee	$38.31*
VI. Deliver Orders (Bearer Issues)				
. ID	$ .21 for each item delivered or received		$ .19 for each item delivered or received	
. PTS, API or CCF	$ .40 for each item delivered, $ .30 for each item received		$ .37 for each item delivered, $ .29 for each item received	

Notes to Annex

* Weighted rate based on current mix of transactions in this service.

** A less-active issue fee applies to certain issues each calendar quarter based on prior period of activity averaging 2 or fewer transactions on days when activity occurred.

*** In a deposit or withdrawal of more than 150 certificates, each group of 150 certificates is charged as a separate deposit or withdrawal.

**** This fee is shared equally by the broker and clearing agent for investment manager trades made by other than a trust department of direct and indirect depository Participants.

(1) All deposits shipped to DTC from outside the NYC area are regarded as Zone A deposits.

(2) Presently, an additional $1.35 charge is added to this fee for each assignment resulting in direct mail by DTC. This charge will now be increased to $1.60.

(3) The portion of the fee associated with face value will not be applied to Registered Municipal book-entry-only issues.

(4) A surcharge of $350.00 applies to issues with a put option feature to cover the costs associated with reviewing the official statement and establishing a data base through which put periods are monitored. Issues requiring consultation and special development efforts will be charged an additional surcharge to cover DTC's additional costs. The impact of these surcharges is not included in the weighted rates.

(5) Monthly refunds of dividends investment income are reduced $3,250,000 annually for unrecovered costs associated with efforts to collect cash dividends and interest payments in same-day funds on payable date. Such monthly refunds will now be reduced by $1,550,000 annually, a lesser amount.

(6) Participant Terminal System pass-through charges for a PTS terminal configuration and an additional CRT were reduced to this amount subject to further reduction later in 1990 when the cost of equipment upgrades is known.

1990 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
III. Long Position				
. For each active issue per month (held by more than 2 Participants)	$ .76 per issue		$ .54 per issue	
. For each less-active issue per month (held by 1 or 2 Participants)	$1.51 per issue		$1.29 per issue	
. Monthly charge on face value				
$0 - $.5 billion	$ .000011		No Change	
Excess over $.5 billion up to $1 billion	$ .00000275		No Change	
Excess over $1 billion up to $8 billion	$ .000001375		No Change	
Excess over $8 billion	$ .0000006875		No Change	
. A monthly surcharge on all positions in Book Bond issues	$1.05 per issue	$2.14*	No Change	$1.92*
. A monthly surcharge on all positions requiring coupon collection from paying agents located outside Metropolitan New York area	$ .25 per issue		No Change	
. A monthly surcharge on all positions in multiple purpose issues	$ .50 per issue		No Change	
. A monthly surcharge on all positions in issues denominated in units of $1,000	$ .50 per issue		No Change	

All footnotes in this Annex are found on the last page.

[FR Doc. 90-6504 Filed 3-23-90; 8:45 am]
BILLING CODE 8010-01-C

[Rel. No. 34-27811; File No. SR-NYSE-90-09]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Proposed Rule Change Relating to Amendments to NYSE Rule 476A

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 8, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this proposed rule change is to revise the list of Exchange rule violations and fines applicable thereto pursuant to Rule 476A, "Imposition of Fines for Minor Violation(s) of Rules," (the "Rule 476A Violations List") by adding to the list certain rules and policies administered by the Exchange's Member Firm Regulation Division.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

Rule 476A provides that the Exchange may impose a fine, not to exceed $5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules. The purpose of the Rule 476A procedure is to provide for a response to a rule violation when a meaningful sanction is appropriate but when the initiation of a full disciplinary proceeding under Rule 476A is not suitable because such a proceeding would be more costly and time consuming than would be warranted given the minor nature of the violation. Rule 476A provides for such an appropriate response to minor violations of certain Exchange rules while, through its specified required procedures, preserving the due process rights of the party accused. The Rule 476A Violations List specifies those rule violations that may be the subject of fines under the rule and also includes a schedule of fines.

The purpose of this proposed rule change is to add certain rules and policies to the Rule 476A Violations List. The proposed additions to the list would permit the Exchange to impose fines for:

Failure of a member organization to have individuals responsible and qualified for the positions of Financial Principal, Operations Principal, Compliance Official, Branch Office Manager and Supervisory Analyst (Rules 311(b)(5), 342(b), (d) & .13, and 344).

Failure of a member organization to have individuals responsible and qualified for the positions of Registered Options Principal, Senior Registered Options Principal and Compliance Registered Options Principal (Rules 720 and 722(b)).

Failure of a member organization to have individuals responsible and qualified for the positions of Securities Lending Supervisor and Securities Trader Supervisor (Rule 345(a)).

(b) Statutory Basis

The proposed rule change will advance the objectives of section 6(b)(6) of the Act in that it will provide a procedure whereby member organizations can be "appropriately disciplined" in those instances when a rule violation is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. The proposed rule change provides a fair procedure for imposing such sanctions, in accordance with the requirements of sections 6(b)(7) and 6(d)(1) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that this proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit or receive written comments on the proposed rule change from members, participants or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 16, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 16, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-6719 Filed 3-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27819; File No. SR-NYSE-90-03]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Standards for Communication with the Public

On January 17, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Exchange Rule 472.30 relating to standards for communication with the public.

The proposed rule change was noticed in Securities Exchange Act Release No. 27677 (February 6, 1990), 55 FR 4930 (February 12, 1990). No comments were received on the proposal.

The NYSE proposes to amend Exchange rule 472.30, relating to standards for communication with the public, to delete the "good taste" provision of the rule. Rule 472.30 sets forth the general standards applicable to all member organization communications with the public including, but not limited to, advertisements, research reports, and sales literature. These general requirements include standard of truthfulness and good taste as well as prohibitions against the use of any communication which contains untrue statements, omissions of material fact, promises of specific results, exaggerated claims and other similar practices.[3] The proposal would only delete the truthfulness and good taste language of Rule 472.30: the other prohibitions of the Rule will remain in effect.

The NYSE also proposed to delete the provision in Rule 472.30 relating to Exchange review of member organization material. The Exchange plans to discontinue its voluntary pre-clearance service[4] and will no longer conduct formal, biannual spot-checks of communications prepared or distributed by members and member organizations.[5] Alternate procedures, based on branch office examinations, will be implemented by the Exchange.

The NYSE states that its proposal to amend Rule 472.30 will not affect the option communication standards set forth in Rule 791. Rule 791, therefore, will continue to require, among other things, general standards of good taste and truthfulness in option communications to the public.

The NYSE argues that the "good taste" provision found in Rule 472.30 is too subjective a standard to enable effective and consistent determination of compliance with the rule. The Exchange believes that existing standards found in the remainder of Rule 472.30, other applicable anti-fraud provisions of Exchange Rules, and anti-fraud provisions of federal securities regulations serve as a deterrent to certain language or practices that might otherwise be covered under the "good taste" standard. The Exchange also believes that the increased professionalization of its member organizations' advertising, marketing, research, and compliance personnel and practices has significantly increased the overall quality of public communications.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[6] In particular, the Commission believes that the proposal will promote just and equitable principles of trade, prevent fraudulent and manipulative acts, and, in general, protect investors and the public interest with respect to member and member organizations communications with the public.

The Commission believes that the deletion of Rule 472.30's truthfulness and good taste language should result in the utilization of a more objective standard for reviewing member communications with the public. As a result of the amendment, the Exchange will not have to determine subjectively whether a communication is in good taste or is generally truthful, but may instead objectively focus on whether any specific prohibition of the Rule is violated. The proposal, therefore, should result in increased effectiveness and consistency in the Exchange's determinations of compliance with the rule. This, in turn, should provide practical standards to guide members and member organizations in their communciations with the public. The Commission notes that the Exchange's communication standards will continue to set forth a basic standard of truthfulness in the enumerated prohibitions of Rule 472.30 as well as in the specific standards of Rule 472.40.[7]

The Commission also believes that it is acceptable for the NYSE to discontinue its voluntary pre-clearance review service and its formal spot-checks of member and member organization communications. The Exchange will implement alternate procedures, based on branch office examinations, for reviewing communications prepared or distributed by members and member organizations. The Commission believes that the Exchange will be able to review adequately members' communications during routine examinations of NYSE member firms.

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[8] That the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Dated: March 19, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-6720 Filed 3-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27814; File No. SR-PSE-90-07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Stock Exchange, Incorporated Relating to Constitutional and Rule Amendments Regarding the Titles of Chairman and President

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 5, 1990, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] In addition, NYSE Rule 472.40 sets forth specific standards for communication with the public including, but not limited to, recommendations, disclosure, records of past performance, and projections and predictions.

[4] This service allows member organizations to submit communications to Exchange staff for pre-use review. A $25 fee is incurred per submission.

[5] The National Association of Securities Dealers, Inc. ("NASD"), in its Notice to Members 90-14 (March 1990), states that if the NYSE amendments to Rule 472.30 become effective, dual NASD/NYSE members may no longer rely on the NASD's section 35(c)(6) exemption from review of public communications. Article III, Section 35(c)(6) of the NASD's Rules of Fair Practice, provides that NASD communication spot-check procedures will not be applied to members who have been spot-checked "within the preceding calendar year" by an exchange using comparable review procedures.

[6] 15 U.S.C. 78f (1982).

[7] *See supra* note 3 and accompanying text.

[8] 15 U.S.C. 78s(b)(2) (1982).

[9] 17 CFR 200.30-3(a)(12) (1989).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE, pursuant to Rule 19b–4 of the Act, submitted a proposed rule change to amend the PSE's Constitution and Rules of the Board of Governors with regard to the titles of Chairman and President. Generally, throughout the Constitution and Rules, the terms "Chairman" and "President" are replaced by the terms "Chief Executive Officer" and "Chief Operating Officer," respectively. These amendments affect article II, sections 2(a), 2(b), 3(a), 4(a), 4(b), and 6; article III, section 5(a); article IV, section 4 of the Constitution; and rule XXII of the Rules of the Board of Governors.

In article II, section 2(a), the following changes are affected by the amendment: The President shall be appointed by the Board, and shall be prohibited from engaging in other business without the Board's approval. The President shall be a member of the Board, and shall be an ex officio member of all committees. The Chairman will no longer be required to preside at all meetings of the Board. In addition, the Chairman's power to call meetings of the Board and appoint all committees is deleted.

New section 2(b) of article II sets out the role of the Chief Executive Officer, who shall either be the President or the Chairman, as the Board of Governors may from time to time determine. The Chief Executive Officer shall be responsible to the Board for management of the Exchange, shall be the official representative in all public matters, shall preside at all Board meetings, may call special meetings, and shall, with the Vice Chairman, appoint Exchange committees subject to the Board of Governors' approval. The Chief Executive Officer may not be a member of the Exchange or a partner or voting stockholder of a member firm.

Article II, section 3(a) provides that the Vice Chairman of the Board of Governors shall perform the functions of the Chief Executive Officer in his absence or inability to act.

Section 4 of article II replaces existing sections 4(a) and 4(b), and sets out the duties of the Chief Operating Officer, who shall be appointed by the Board. The Chief Operating Officer shall not engage in any other business without the Board's approval and shall perform duties delegated by the Board. The Chief Operating Officer may not be a member of the Exchange, or a partner or voting stockholder of a member firm.

Section 6 of article II is amended to provide that the Executive Committee shall consist of the Chief Executive Officer and the Chief Operating Officer, among others, replacing the Chairman of the Board and President on the Committee.

Article III, section 5(a) relating to Elections, and article IV, section 4 relating to Committee Appointments, are amended to replace the term "Chairman" with the term "Chief Executive Officer."

In addition to the Constitutional amendments, references to "Chairman" or "President" in the Rules of the Board of Governors are also affected by this rule proposal. The only reference in the rules to the Chairman is found in rule XXII, which governs Committees of the Exchange. Throughout this rule, references to "Chairman" will be replaced by "Chief Executive Officer."

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of, and basis for, the proposed rule change and dicussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide flexibility in the use of the Chief Executive Officer and Chief Operating Officer positions, without regard to the title of Chairman or President. The proposal will require that the Chief Executive Officer be either the Chairman or President of the Exchange, and will allow the Board additional discretion in deciding how to structure the position.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it will protect investors and the public interest.

B. Self-Regulatory Organization's Statement of Burden on Competition

The PSE does not believe that the proposal imposes a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The proposed Constitutional amendments were approved by the PSE members on January 25, 1990, in accordance with article XVII, section 1, of the PSE Constitution.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Becaue the foregoing rule change is concerned solely with the administration of the Exchange, it has become effective upon filing pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal offfice of the PSE. All submissions should refer to File No. SR–PSE–90–07 and should be submitted by April 16, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 16, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–6721 Filed 3–23–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC—17384; 813-92]

Elfun Money Market Fund; Notice of Application

[March 16, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Elfun Money Market Fund ("Applicant").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(b) from the provisions of sections 10(a), 13(a)(4), 15(a), 15(c), 16(a), 30(d) and 32(a).

SUMMARY OF APPLICATION: Applicant seeks an order exempting it from certain provisions of the 1940 Act to permit it: (1) to have all of its trustees be interested persons of the Fund; (2) to terminate without authorization by a majority of its unitholders; (3) to enter into, renew, or perform investment advisory contracts without the approval of a majority of disinterested trustees; (4) to elect successor trustees without holding elections by unitholders; (5) to distribute certain reports to unitholders on an annual basis; and (6) to select accounts without the approval of a majority of disinterested trustees or the ratification by unitholders.

FILING DATES: The application was filed on September 28, 1989, and amended on February 12, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 12, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, D.C. 20549. Applicant, c/o Alan M. Lewis, Esq., 3003 Summer Street, Stamford, Connecticut 06904-7900.

FOR FURTHER INFORMATION CONTACT: Regina N. Hamilton, Staff Attorney, at (202) 272-3024, or Stephanie Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a trust created pursuant to a trust agreement dated July 15, 1989, among the Applicant's trustees ("Trustees"). It is a diversified, open-end, management investment company, and meets the requirements of an "employees' securities company" within the meaning of Section 2(a)(13) of the 1940 Act. Applicant's objective is to provide a high level of current income consistent with prudent investment management and preservation of capital. Applicant may invest in various forms of short-term money market instruments, participate in commingled funds of other investment companies, and invest in securities of other registered investment companies the similar objectives, provided that such investments are consistent with the requirements of section 12(d) (1) of the Act.

2. Purchase of Applicant's units ("Units") may be made by regular and senior members of the Elfun Society (an honorary society of General Electric ("GE") employees), certain of their family members, GE and its subsidiary and controlled companies, and such other persons designated from time to time by the Trustees, provided their participation does not alter the Fund's status as an "employees' securities company" within the meaning of section 2(a)(13) of the 1940 Act. Regular members of the Elfun Society are selected from higher level exempt-salaried employed of GE and its subsidiary and controlled companies; senior members are former regular members who have retired from those companies.

3. General Electric Investment Corporation ("GEIC"), wholly-owed subsidiary of GE and an investment adviser registered with the SEC, serves as Applicant's investment adviser. Applicant will reimburse GEIC for the reasonable direct and indirect costs it incurs in providing investment management and advisory services to the Applicant. Such reimbursement will not include any element of profit for GEIC. GEIC's appointment as investment adviser is subject to annual review by the Trustees.

Applicant's Legal Conclusions

1. Applicant's five Trustees are employees or officers of GE who serve as executive officers of GEIC. As such, all Trustees are interested persons within the meaning of the 1940 Act. Thus, Applicant requests an exemption from Section 10(a) of the 1940 Act which requires that no more than 60% of a registered investment company's board of directors may be interested persons of such company.

2. Applicant argues that the protection of investors does not require the appointment of disinterested trustees for several reasons. First, while GE does not formally sponsor the Applicant, it provides financial support to the Applicant and has a substantial community of interest with Applicant. Moreover, GE initially may be a significant investor in the Applicant. Second, it is not necessary to engage outside persons as disinterested trustees to bring Applicant skills needed for its operation, given the experience of the persons selected as Trustees. Third, Applicant has estimated that the addition of four disinterested trustees would add approximately $50,000 to annual operating expenses. Fourth, except for costs allowable to that part of the Trustee's time spent on Applicant's business, the Trustees do not receive any compensation from Applicant.

3. Applicant's trust agreement provides that the Trustees will retain the right, in their sole discretion, to terminate Applicant's existence. Section 13(a)(4) provides that no registered investment company may change the nature of its business so as to cease to be an investment company, unless the company is so authorized by holders of a majority of its outstanding voting securities. Applicant accordingly requests exemption from Section 13(a)(4) to the extent necessary to permit Applicant to terminate its existence without authorization by the vote of a majority of the holders of its outstanding Units ("Unitholders").

4. Applicant believes that the cost of seeking authorization from the majority of its Unitholders would be obtained by its investors. Applicant argues that in the event of termination, shareholders would not be deprived of invested contributions by GE or its affiliates because such entities will not be contributing to Unitholder accounts. Upon termination, each Unitholder would receive the balance in his account in full, which would constitute the net asset value of his investment. Given the abundance of other money market

funds, Unitholders would be able to reinvest in similar types of funds.

5. Applicant also requests an exemption from Section 15(a) to the extent it would require that the contract between it and GEIC be approved by a majority of Unitholders. Applicant believes that the substantial costs that it would incur in seeking such approval would not be justified in the context of its proposed operations. GE's community of interest with the Applicant will also serve to protect Applicant's interest in investment advisory services.

6. Because all of the Trustees are interested persons of GEIC, an exemption is also requested from the requirements of section 15(c) to the extent that it requires a majority of Trustees who are not parties to contracts or agreements with investment advisers or principal underwriters or who are not interested persons of such advisers or underwriters to approve such contracts or agreements. Applicant argues that such relief would be consistent with the protection of investors because GEIC will initially absorb a portion of the expenses of Applicant, and, on a permanent basis, provide management and advisory services at cost. Moreover, units will be sold without any sales charge.

7. Section 16(a) would require that the Trustees be elected by Unitholders at an annual or special meeting. Because Applicant does not plan to conduct annual or special meetings of Unitholders and proposes that the Trustees have the authority to elect successor Trustees, it requests an exemption from the provisions of section 16(a). Applicant represents that such an exemption would save it considerable expense that it would otherwise incur by conducting such meetings.

8. Section 30(d) would require that Applicant, on at least a semi-annual basis, transmit certain reports to Unitholders. Because Applicant proposes to transmit the reports required by section 30(d) on an annual basis, it requests an exemption from that section. To distribute reports more frequently would generate significant cost to Applicant and, consequently, to Unitholders. Applicant has not requested exemptive relief to the extent section 30 requires the filing of other reports.

9. Section 32(a) of the 1940 Act would require that, among other things, Applicant's accountant be selected by a vote of a majority of disinterested Trustees, such selection be submitted for ratification or rejection at a meeting of Unitholders, and employment of the accountant be conditioned upon the vote of a majority of Unitholders to terminate such employment at a meeting called for such purpose. Because Applicant proposes to have Trustees who are interested persons and Applicant does not intend to conduct regular or annual meetings, Applicant seeks an exemption from section 32(a). Applicant argues that the reasons cited above for having intersted persons as Trustees and for not conducting annual or regular meetings are equally applicable with respect to its request for relief from section 32(a).

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-6722 Filed 3-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-25056]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

March 16, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 9, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

General Public Utilities Corporation, et al. (70-7727)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, General Portfolios Corporation ("GPC"), Mellon Bank Center, Tenth and Market Streets, Wilmington, Delaware 19001, a subsidiary of GPU, and Energy Initiatives, Incorporated ("EII"), One Gatehall Drive, Parsippany, New Jersey 07054, a subsidiary of GPC, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 12(c) of the Act and Rules 42 and 45 thereunder.

EII requests authority to engage in preliminary project development and administrative activities (collectively, "Activities") in connection with its investments in (i) qualifying cogeneration facilities located anywhere within the United States and qualifying small power production facilities, as defined by the Public Utility Regulatory Policies Act of 1978 and the rules and regulations promulgated thereunder by the Federal Energy Regulatory Commission, located within the service territories of the companies party to the Pennsylvania-New Jersey-Maryland Interconnection Agreement, and (ii) load management and energy storage system projects.

In order to finance the Activities and to make investments in such projects, which investments shall be subject to further authorization of the Commission, GPU and GPC request authority to make investments in EII through December 31, 1992 in an aggregate amount of up to $60 million through (i) capital contributions by GPU to GPC, which GPC would in turn make available to EII and (ii) unsecured borrowings by GPC from commercial banks, insurance companies and other institutional lenders for terms not exceeding 10 years and at interest rates generally available at the time of such borrowings for comparable unsecured loans made by similarly situated borrowings. GPU states that it will enter into a support agreement with GPC for the benefit of lenders, whereby GPU will covenant to maintain ownership, positive net worth and adequate liquidity of the borrower.

EII states that it could more efficiently conduct its activities if a separate entity were responsible for fuel procurement, supply and management for all of EII's various projects. Accordingly, GPC proposes to organize and acquire for $1,000 all of the common stock of a new subsidiary, Fuels Corp. Fuels Corp. would engage in the business of procuring, supplying and managing fuel and fuel transportation services for generating facilities developed by EII and other GPC subsidiaries. Fuels Corp. would not purchase fuel supply or transportation in excess of the

anticipated needs of these projects at the time of procurement, but, due to uncertainties associated with estimated project fuel use and fuel and transportation costs, excess fuel or transportation services may be available. In such event, and where economical to do so, Fuels Corp. would sell such excess fuel or transportation capacity to third parties. Fuels Corp. would not, however, engage in any such activities which would subject it to regulation as a gas utility company.

EII further proposes to change its state of incorporation to Delaware by a statutory merger of EII and a newly formed Delaware corporation ("Newco") which would be a wholly owned subsidiary of GPC. The Plan and Agreement of Merger ("Plan") would provide for the merger of EII and Newco, with Newco being the surviving entity. The 10,000 outstanding shares of EII common stock now held by GPC would, under the Plan, be exchanged for 10,000 shares of Newco common stock. Upon consummation of the merger, all shares of EII common stock would be cancelled.

Eastern Utilities Associates et al. (70–7740)

Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, and its wholly-owned public-utility subsidiary company, EUA Power Corporation ("EUA Power"), 40 Stark Street, P.O. Box 326, Manchester, New Hampshire 03105, have filed an application-declaration under sections 6(a), 6(b), 7, 9(a), 10, 12(b) and 12(c) of the Act and Rules 43(a) and 45(a) thereunder.

EUA proposes to make, from time-to-time, through May 15, 1991, up to $75 million aggregate principal amount of capital contributions ("Capital Contributions"), open account advances ("Advances") and/or short-term loans ("Loans") (collectively, "Contributions") to EUA Power. The Advances and/or Loans will be evidenced by the issuance of short-term notes with maturities of up to one year, which will either be interest free or will bear interest at a rate equal to EUA's effective cost of funds from commercial lenders, as adjusted from time-to-time. The Capital Contributions will not be made until after the date on which Seabrook Nuclear Power Project ("Seabrook") Unit 1 commences commercial operation.

EUA Power proposes to issue notes of up to $47 million, which may be issued or renewed through May 15, 1991, to evidence short-term borrowings ("Borrowings") from lending institutions at the commercial bank prime rate ("Prime Rate") as adjusted from time-to-time, with maturities of up to nine months, or at available money market rates, with maturities of up to sixty days, which in all cases will be less than the Prime Rate at time of issuance. EUA proposes to guaranty the Borrowings.

EUA Power also proposes to issue and sell to EUA at $100 per share par value all or a portion of the 92,000 remaining authorized and unissued shares of EUA Power's Class A Preferred Stock ("Preferred Stock"), for an aggregate amount of up to $9.2 million, through the earlier of June 1, 1990 or the commencement of the commercial operation of Seabrook Unit 1.

EUA proposes to unconditionally guaranty ("Guaranty") certain obligations of EUA Power of up to $10 million arising out of a Decommissioning Costs Security Agreement ("Decommissioning Agreement") entered into by EUA Power in connection with its acquisition of an ownership interest in Seabrook (HCAR No. 24245, November 21, 1986). Subject to the consent of certain other joint owners of Seabrook, the Guaranty would make available for release to EUA Power a $10 million note, previously issued by EUA Power, and collateral thereunder consisting of certain investment securities, which EUA Power deposited as security for its obligations under the Decommissioning Agreement. EUA Power proposes to sell the returned collateral and apply the proceeds for corporate purposes, including its obligations on certain outstanding securities and its obligations to Seabrook.

EUA further proposes, from time-to-time, to issue notes of up to $75 million, with maturities of up to nine months, which may be issued or renewed through May 15, 1991, to evidence short-term borrowings under its existing bank lines of credit, to finance the Contributions to, or purchases of Preferred Stock from, EUA Power. The existing credit line arrangements include: (1) borrowings at the prime rate or money market rates, if lower; and (2) borrowings at the prime rate or money market rates, if lower, together with a commitment fee equal to ¼ of 1% multiplied by the credit line. In addition, EUA proposes to obtain funds for such purposes from: (1) internally generated cash; (2) EUA's dividend reinvestment plan and its employees' savings plan (HCAR No. 24747, November 17, 1988); (3) repayment of funds advanced by EUA to its subsidiary company, EUA Cogenex Corporation (as contemplated by Commission File No. 70–7665 and subject to Commission authorization); (4) repayment of funds advanced by EUA to EUA Power; and/or (5) subject to further Commission authorization, the proceeds of one or more public offerings of additional shares of EUA common stock, if necessary.

EUA Power further proposes to use the proceeds of the financings proposed in this application-declaration to pay up to $30 million to acquire and retire certain of its 17½% Series B Secured Notes ("Series B Notes") due May 15, 1993, 17½% Series C Secured Notes ("Series C Notes") due November 15, 1992, and/or Contingent Interest Certificates ("CICs").[1] In addition, EUA Power proposes from time-to-time to use internally generated funds to finance such purchases or its purchases of outstanding Series B Notes, Series C Notes and/or CICs in excess of $30 million. Series B Notes, Series C Notes and/or CICs may be acquired by EUA Power through purchases on the open market, or purchases pursuant to an offer made to all the holders of the Series B Notes, Series C Notes and/or CICs to purchase such securities for cash on a pro rata basis.

The overall amount to be financed from external sources by EUA or EUA Power through one or any combination of the transactions proposed herein and to be outstanding at any one time shall not exceed $75 million. The proposed transactions by EUA Power shall not exceed in the aggregate amount $75 million.

Metropolitan Edison Company (70–7742)

Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605, an electric public-utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application-declaration under sections 6(a), 6(b), and 7 of the Act and Rules 50 and 50(a)(5) thereunder.

Met-Ed proposes to issue and sell, in one or more transactions through April 30, 1992, up to $150 million aggregate

[1] By orders dated May 12, 1988 (HCAR No. 24641) and May 5, 1989 (HCAR No. 24879), EUA Power was authorized, among other things, tok exchange $180 million of 17½% Series A Secured Notes ("Series A Notes") for up to $180 million of Series B Notes, and to issue up to $100 million of Series C Notes and 180,000 CICs, making it possible for EUA Power to meet its obligations to Seabrook and to the holders of EUA Power's notes during the period from May 15, 1988 through May 14, 1990. The CICs evidence the right to receive additional payments contingent upon and measured by EUA Power's income in certain years following the commercial operation date of Seabrook Unit 1. As of December 31, 1989, all of the Series A Notes had been exchanged, and there were currently $180 million of Series B Notes, $99,597,200 of Series C Notes and 180,000 CICs outstanding.

principal amount of: (1) first mortgage bonds ("New Bonds"); and/or (2) medium-term notes, either as first mortgage bonds ("Secured MTNs") or unsecured notes ("unsecured MTNs") (collectively, "MTNs"). The New Bonds will have a term of not less than one and not more than thirty-five years. The maturity dates of the MTNs will range from nine months to thirty-five years to be determined by agreement between Met-Ed and the respective purchasers. The New Bonds and the MTNs will be subject to certain redemption provisions and certain sinking fund provisions.

Met-Ed proposes to offer the New Bonds at competitive bidding pursuant to Rule 50, or in accordance with the alternative procedures authorized by the Statement of Policy, dated September 2, 1982 (HCAR No. 22623), or under an exception from the competitive bidding requirements of Rule 50 under subsection 50(a)(5) thereunder. Met-Ed proposes to offer the MTNs pursuant to an exception from the competitive bidding requirements of Rule 50 under subsection 50(a)(5) thereunder. Met-Ed therefore requests authorization to begin negotiations with prospective purchasers with respect to the sale of both the New Bonds and the MTNs. It may do so.

Met-Ed states that there will be a deviation from the standards required under the Commission's *Statement of Policy Regarding First Mortgage Bonds Subject to the Public Utility Holding Company Act of 1935* (HCAR No. 13105, February 16, 1956, as amended May 8, 1969, HCAR No. 16369) ("SOP"). The SOP states that issuers may include a provision prohibiting, for a period of not more than five years, the refunding of such bonds by the issuance of debt securities at lower interest costs. The New Bonds and MTNs, however, may not be redeemable by Met-Ed for a period of up to a maximum of ten years following their issuance.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-6723 Filed 3-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17383; 812-7422]

Quadra Logic Technologies Inc.; Notice of Application

March 16, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Quadra Logic Technologies Inc. (the "Applicant").

Relevant 1940 Act Sections: Section 3(b)(2).

Summary of Application: Applicant seeks an order under section 3(b)(2) of the 1940 Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant seeks the order to permit it to invest the proceeds from a United States public offering of its securities in investment securities, pending expenditure of such proceeds on research projects and commercialization of its drugs.

FILING DATE: The application was filed on October 31, 1989, and amended on March 7, 1990.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 9, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Leonard V. Quigley, Esq., Paul, Weiss, Rifkind, Wharton & Garrison, 1285 Avenue of the Americas, New York, New York 10019-6064.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Stephanie Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a publicly-held company incorporated under the Company Act of British Columbia on February 3, 1981. Its shares are quoted in the United States on the NASDAQ National Market System and are listed in Canada on the Toronto and Vancouver Stock Exchanges.

2. Applicant is a biopharmaceutical company engaged in the development and commercialization of photosensitive drugs that are activated by light. Applicant concentrates on photodynamic technology which uses light activated drugs for the diagnosis and treatment of disease. The product developments of Applicant are limited to the areas of cancer, sexually transmitted diseases, viral inactivation in blood and atherosclerosis. Applicant eventually intends to manufacture and distribute its proprietary and generic drugs.

3. Applicant has received and continues to receive only a nominal amount of revenues from its operations and has operated at a substantial loss over the last several fiscal years. At the same time, Applicant will continue to require substantial sums to fund the costs of clinical drug development, testing, and commercialization of the Applicant's proprietary products.

4. In order to raise additional funds to continue its activities, Applicant has made a public offering of its shares of common stock in the United States and Canada. Applicant has registered approximately 4.2 million shares of common stock under a registration statement on Form F-1 filed with the SEC under the Securities Act of 1933 and declared effective December 1, 1989. Net proceeds from the public offering and from the sale of other shares to American Cyanamid Company have aggregated to approximately Can$27.5 million.

5. Applicant anticipates that the net proceeds from the sale of its common stock will be used to fund the cost of clinical drug development and the testing and commercialization of its proprietary products. Such proceeds also will be used to complete advanced clinical trials and to file for marketing approvals of the Applicant's proprietary drugs, and used to fund other preclinical and clinical trials for cancer indications. An additional portion of the proceeds will be used by the Applicant to finance its share of the development and testing of drugs for the treatment of sexually transmitted diseases and for viral inactivation of blood. The balance of the proceeds will be used to fund other drug development programs, expansion of manufacturing capabilities, acquisition of new products and for general corporate purposes.

6. Pending utilization of the net proceeds for any of the above purposes, substantially all of such proceeds will

be invested in short-term investment grade money market instruments, interest bearing deposit accounts or similar instruments. Currently, all of Applicant's investments consist of deposits, banker's acceptances and money market accounts.

7. As of October 31, 1989, the proportion of investment securities to total assets (less cash and United States government securities) was 36.5%. Following the offering of its common stock, that production increased to 76.6%.[1]

Applicant's Legal Analysis

8. The Applicant is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities and should be granted an exemption under Section 3(b)(2) of the 1940 Act. In determining its primary business engagement, Applicant considered the following factors:

a. *Historical Development:* Since its inception, Applicant has been engaged in the development and commercialization of bipharmaceutical and biotechnology products for use in diagnosis and therapy, and in the business of importing, exporting, and marketing generic pharmaceuticals.

b. *Sources of Income and Nature of Assets:* Applicant has always operated at a loss because none of its biopharmaceutical products has been approved by governmental authorities for commercial sale. Beginning in 1988, revenues from the sales of generic pharmaceuticals constituted a minor portion of its overall revenues, the bulk of which derives from investment and interest income. Until Applicant can commercially market its photosensitizer drugs, it must spend substantial amounts of money on research, development, and clinical testing. Applicants has raised such amounts over the years from public offerings and private placements of its equity securities and from the income realized on its investment securities.

c. *Public Representation of Policy:* In all of Applicant's shareholder communications, such as annual reports, and in all of its private and public offering documents, Applicant has consistently held itself out to be engaged in the development and commercialization of biopharmaceutical and biotechnology products.

d. *Activities of Officers and Directors:* Approximately 60% of Applicant's employee (includnig its executive officers) are research and technical personnel, approximately 30% are administrative personnel, and approximately 10% are marketing personnel. Five of the Applicant's twelve executive officers and directors hold Ph.D. degrees in a scientific field. Investment decisions are made by the chief financial officer of the Applicant, who devotes less than 4% of his time to investment decisions. The Applicant estimates that less than 1% of its management's time is devoted to the consideration of investment issues.

9. Applicant will temporarily invest the proceeds of the offering in Canadian government securities and short-term money market investments.[2] The Applicant has no intention of speculating in securities or becoming engaged in any business other than that in which it is currently engaged. The Applicant's investment in securities will be an incidental rather than a primary activity, brought about by the need to obtain working capital for its primary business.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-6724 Filed 3-23-90; 8:45 am]

BILLING CODE 8010-01-M

[1] These results are based on the book value of Applicant's assets. If market value were used to value those assets, the ratio of investment securities to total assets would be 37.1%. The difference between using book value and market value results from the market valuation of Applicant's patents, licenses, and rights. The book value of these non-investment security assets is approximately Can$6.3 million, whereas the market value amounts to Can$52 million.

[2] Applicant does not invest in United States government securities because such investments would result in commercial and tax disadvantages for a Canadian company.

DEPARTMENT OF STATE

[Public Notice 1178]

U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Study Group C; Meeting Change

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) scheduled to meet April 11, 1990, has been changed to May 1, 1990 at the Newark Airport Marriott Hotel, commencing at 9 a.m.

The purpose of the meeting will be to discuss fiber and fiber systems issues as they relate to CCITT Study Group XV Working Parties 4 and 5.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Henry L. Marchese at 201-234-3790.

Dated: March 7, 1990.

Earl S. Barbely,

Director, Office of Telecommunications, and Information Standards; Chairman, U.S. CCITT National Committee.

[FR Doc. 90-6796 Filed 3-23-90; 8:45 am]

BILLING CODE 4710-07-M

STATE DEPARTMENT

[Public Notice 1177]

Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Wednesday, April 11, 1990 at 8:30 a.m. at the Biltmore Hotel, Coral Gables, Florida. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(4), it has been determined the meeting will be closed to the public. Matters relative to privileged commercial information will be discussed. The agenda calls for the discussion of private sector physical security policies, bomb threat statistics, and security programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Tammy W. Kearns, Overseas Security Advisory Council, Department of State, Washington, DC 20522-1003, phone: 202/663-0023.

Dated: March 7, 1990.

Clark Dittmer,

Director of the Diplomatic Security Service.

[FR Doc. 90-6793 Filed 3-23-90; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF STATE

[Public Notice 1176]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Ship Design and Equipment; Meeting

The Working Group on Ship Design and Equipment of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on April 5, 1990 at 9:30 a.m. in Room 2415 at United

States Coast Guard Headquarters, 2100 Second Street SW., Washington, DC.

The purpose of the meeting will be to prepare for the 33rd Session of the International Maritime Organization (IMO) Subcommittee on Ship Design and Equipment (DE), scheduled to be held at IMO in London, England from April 23–27, 1990. Items of discussion will include the following: Materials other than steel for pipes; maneuverability of ships; helicopter facilities offshore; requirements for purpose and non-purpose-built ships dedicated to the carriage of irradiated nuclear fuel; harmonization of alarm provisions; amendments of regulations II–1/41 and 45 of SOLAS 1974, as amended; ventilation of vehicle decks during loading and unloading; review of reporting requirements on Codes and Assembly resolutions related to the work of the Subcommittee; underpressure in cargo tanks due to the application of vacuum systems to minimize the effect of pollution of oil after damage; maximum stowage height of survival craft; carriage of dangerous goods on vehicle decks of passenger ships; revision of design and construction requirements in the 1977 Torremolinos Convention; use on board ships of ozone-depleting substances other than halons; and, guidelines on standard calculation methods for mobile offshore drilling unit anchoring positioning systems and dynamic positioning systems.

Members of the public may attend up to the seating capacity of the room.

For further information contact Captain J. C. Maxham at (202) 267–2967, U.S. Coast Guard Headquarters (G–MTH), 2100 Second Street SW., Washington, DC 20593–0001.

Dated: March 1, 1990.

Thomas J. Wajda,

Chairman, Shipping Coordinating Committee.

[FR Doc. 90–6794 Filed 3–23–90; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 1175]

Shipping Coordinating Committee, Subcommittee on Ocean Dumping; Meeting

The Subcommittee on Ocean Dumping of the Shipping Coordinating Committee will hold an open meeting on April 5, 1990 from 10 a.m. to 12 noon to review U.S. submissions concerning the first meeting of the Steering Group on Long Term Strategy for the London Dumping Convention and to review U.S. positions for the 13th Meeting of the Scientific Group on Dumping.

The meeting will be held at the Environmental Protection Agency, Fairchild Building, 499 South Capitol Street SW., Washington, DC 20003 in the Office of Marine and Estuarine Protection Conference Room on the 8th Floor. Members of the public are invited and are free to attend up the seating capacity of the room.

For further information, please contact Mr. Darrell Brown, Office of Marine and Estuarine Protection (WH–556F), Environmental Protection Agency, Washington, DC 20460, telephone (202) 475–8448.

Dated: March 9, 1990.

Stephen M. Miller,

Acting Chairman, Shipping Coordinating Committee.

[FR Doc. 90–6795 Filed 3–23–90; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 162—Aviation Systems Design Guidelines for Open Systems Interconnection (OSI); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I), notice is hereby given for the eleventh meeting of Special Committee 162, Aviation Systems Design Guidelines for Open Systems Interconnection (OSI), to be held April 25–27 in the RTCA Conference Room, One McPherson Square, 1425 K Street, SW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks, (2) approval of minutes of the tenth meeting held February 26–28, (3) reports of working group activities, (4) reports of related activities being conducted by other organizations, (5) review outline for upper layer protocols guidelines, (6) develop plans for air-to-air and voice communications guidance documents, (7) working groups meet in separate sessions, (8) other business, and (9) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 16.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 90–6752 Filed 3–23–90; 8:45 am]

BILLING CODE 4910–13–M

Airport Capacity Funding Advisory Committee

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Airport Capacity Funding Advisory Committee Meeting.

SUMMARY: Notice is hereby given of two meetings of the Airport Capacity Funding Advisory Committee.

DATES: The first of these meetings will be held April 11, 1990, from 9 a.m. to noon and from 1 p.m. to 4 p.m. The second meeting, if required, will be held on April 18 from 9 a.m. to noon and from 1 p.m. to 4 p.m.

ADDRESS: The meeting will be held in Room 10200, DOT Building, 400 7th St., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of Aviation Policy and Plans (APO), 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–3208.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of meetings of the Airport Capacity Funding Advisory Committee to be held April 11 and 18, 1990, in Room 10200, DOT Building, 400 7th St., SW., Washington, DC.

The agenda for the April 11 meeting is as follows: The completion of a discussion of issues and formulation of recommendations primarily related to passenger facility charges. If this agenda is completed on April 11, the April 18 meeting will not be held.

Attendance at the April 11 and 18 meetings is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact Frank C. Emerson in the Office of Aviation Policy and Plans (APO), 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–3208.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on March 20, 1990.

Michael C. Moffet,

Assistant Administrator for Policy, Planning, and International Aviation.

[FR Doc. 90-6751 Filed 3-23-90; 8:45 am]

BILLING CODE 4910-13-M

Noise Exposure Map; Hayward Air Terminal, Hayward, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Hayward, California, for Hayward Air Terminal, Hayward, California, under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is February 20, 1990.

FOR FURTHER INFORMATION CONTACT: David L. Cross, Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010-1303, Telephone (415) 876-2779.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Hayward Air Terminal are in complaince with applicable requirements of part 150 effective February 20, 1990.

Under Section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of exiting noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the city of Hayward. The specific maps under consideration are Figures 4, "1986 Noise Exposure Map," and 5, "1992 Noise Exposure Map," in the submission. The FAA has determined that these maps for Hayward Air Terminal are in compliance with applicable requirements. This determination is effective on February 20, 1990. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibility of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue SW., room 617, Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, AWP-600, 15000 Aviation Boulevard, Hawthorne, California. Mail Address: P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010-1303.

Ms. Joan Castaneda, Airport Director, Hayward Air Terminal, 20301 Skywest Drive, Hayward, California 94541.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California on February 20, 1990.

James J. Wiggins,

Acting Manager, Airports Division.

[FR Doc. 90-6750 Filed 3-23-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: March 20, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0029.

Form Number: 941, 941E, 941PR, 941SS, Schedule A (Form 941) Schedule B (Form 941).

Type of Review: Revision.

Title: Employer's Quarterly Federal Tax Return; Quarterly Return of Withheld Federal Income Tax and Hospital Insurance (Medicare) Tax; and Record of Federal Backup Withholding Tax Liability.

Description: Form 941 is used by employers to report payments made to employees subject to income and FICA taxes and the amounts of these taxes. Form 941E is used primarily by State and local governments to report

withheld income and hospital insurance taxes only. Form 941PR is used by employers in Puerto Rico to report FICA taxes only and Form 941SS is used by employers in the possessions to report FICA tax only. Schedule A is used by payers subject to the backup withholding provisions who elected to report the liability as a separate tax.

Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Federal agencies or employers, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 5,705,373.

Estimated Burden Hours Per Response/Recordkeeping:

	Form 941	Form 941E
Recordkeeping	12 hrs., 40 mins.	11 hrs., 14 mins.
Learning about the law or the form.	54 mins	34 mins.
Preparing the form.	1 hr., 44 mins	1 hr., 42 mins.
Copying, assembling, and sending the form to IRS.	16 mins	16 mins.

	Form 941SS
Recordkeeping	9 hrs., 34 mins
Learning about the law or the form.	12 mins
Preparing the form	22 mins

	Form 941PR
Recordkeeping	5 hrs., 16 mins
Learning about the law or the form.	6 mins
Copying, assembling and sending the form to IRS.	11 mins
Schedule A (Form 941):	2 hours, 25 minutes
Schedule B (Form 941):	
Recordkeeping	5 hrs., 16 mins
Learning about the law or the form.	8 hrs., 6 mins
Preparing, copying, assembling, and sending the form to IRS.	8 hrs., 11 mins

Frequency of Response: Quarterly.

Estimated Total Recordkeeping/ Reporting Burden: 299,556,777 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–6784 Filed 3–23–90; 8:45 am]

BILLING CODE 4830–01–M

Fiscal Service

[Dept. Circ. 570, 1989 Rev., Supp. No. 16]

Surety Companies Acceptable on Federal Bonds; Lancer Insurance Company

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under Title 31, sections 9304 to 9308, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1989 Revision, on page 27814 to reflect this addition:

Lancer Insurance Company. Business Address: 370 West Park Avenue, Long Beach, NY 11561. *Underwriting Limitation* [b]: *$1,218,000. Surety Licenses* [c]: All except AS, CT, GU, NH, PR, VI. *Incorporated in*: Illinois.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (FTS/202) 287–3921.

Dated: March 20, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 90–6678 Filed 3–22–90; 8:45 am]

BILLING CODE 4810–35–M

Internal Revenue Service

Nonconventional Source Fuel Credit; Publication of Inflation Adjustment Factor and Reference Price for Calendar Year 1989

AGENCY: Internal Revenue Service, Treasury.

ACTION: Publication of inflation adjustment factor and reference price for calendar year 1989 as required by section 29(d)(2)(A) of the Internal Revenue Code (26 U.S.C. section 29(d)(2)(A)) (formerly section 44D, renumbered by the Deficit Reduction Act of 1984).

SUMMARY: The inflation adjustment factor and reference price are used in determining the availability of the tax credit for production of fuel from nonconventional sources under section 29 of the Internal Revenue Code.

DATES: The 1989 inflation adjustment factor and reference price apply to qualified fuels sold during calendar year 1989.

INFLATION FACTOR: The inflation adjustment factor for calendar year 1989 is 1.6069.

PRICE: The reference price for all qualified fuels is $15.85 per equivalent barrel for the 1989 calendar year.

Because the above reference price does not exceed $23.50 multiplied by the inflation adjustment factor, the phaseout of credit provided for in section 29(b)(1) of the Internal Revenue Code does not occur for any qualified fuel based on the above reference price.

FOR FURTHER INFORMATION CONTACT:

For the inflation factor—

Thomas Thompson, P:R, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, Telephone Number (202) 233–1210 (not a toll-free number).

For the reference price—

Noel Sheehan, CC:P&SI:6, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, Telephone Number (202) 566–3292 (not a toll-free number).

Kenneth Klein,

Technical Associate Chief Counsel.

[FR Doc. 90–6698 Filed 3–23–90; 8:45 am]

BILLING CODE 4830–01–M

Magnetic Media Filing Communications/Software Industry Briefing

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of Magnetic Media Filing Communications/Software Industry Briefing: Form 5500–C/R, Return/Report of Employee Benefit Plan.

SUMMARY: This document provides notice that a Magnetic Media Filing Communications/Software Industry Briefing will be conducted by the Electronic Filing Systems Office, Internal Revenue Service.

DATES: The briefing is scheduled for April 19, 1990, beginning at 9:15 a.m. and continuing until 3:15 p.m. Notification of

attendance is required no later than April 1, 1990.

ADDRESSES: The briefing will be held at the IRS Auditorium, 7400 Corridor, 1111 Constitution Avenue, NW., Washington, DC 20224.

REGISTRATION: For additional information, contact Lisa Rice at (202) 566–3296 (not a toll-free number), Monday through Friday between 8 a.m. and 4 p.m.

SUPPLEMENTARY INFORMATION: Magnetic media and communications software for Form 5500–C/R will be discussed. This session is an information session for potential participants in the Electronic Filing System and is not intended to generate Request for Proposals (RFP). Seating capacity is limited. Attendees will be accommodated on a first-come, first-served basis with no more than two representatives from the same company.

Leonard Holt,

Acting Project Manager, Electronic Filing Systems Office.

[FR Doc. 90–6697 Filed 3–23–90; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 58
Monday, March 26, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 6, 1990.

PLACE: 2033 K St., NW., Washington, DC, 8th Foor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A Webb,

Secretary of the Commission.

[FR Doc. 90–6877 Filed 3–22–90; 11:27 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 13, 1990.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A Webb,

Secretary of the Commission.

[FR Doc. 90–6878 Filed 3–22–90; 11:27 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 20, 1990.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A Webb,

Secretary of the Commission.

[FR Doc. 90–6879 Filed 3–22–90; 11:27 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 27, 1990.

PLACE: 2033 K St., NW., Washington, DC, 8th Foor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A Webb,

Secretary of the Commission.

[FR Doc. 90–6880 Filed 3–22–90; 11:27 am]

BILLING CODE 6351–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 3:30 p.m., Tuesday, March 20, 1990, Commission Meeting.

LOCATION: Room 440, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

OS #4447

The staff will brief the Commission on issues related to OS #4447.

The Commission by unanimous vote decided that agency business required holding this meeting without the usual seven days advance notice.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90–6922 Filed 3–22–90; 1:56 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, March 28, 1990, Commission Meeting.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

10:00 a.m.

Open to the Public

1. Methylene Chloride General Order

The staff will brief the Commission on options for obtaining data on current use of methylene chloride in household products.

2:00 p.m

Closed to the Public

2. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90–6923 Filed 3–22–90; 1:56 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 55, page 10139, March 19, 1990.

PREVIOUSLY ANNOUNCED DATE OF MEETING: March 21, 1990.

CHANGES: The following item previously scheduled for March 22 was added to the agenda:

2. PPPA Exemptions—Final Rules

The staff will brief the Commission on three final rules to exempt products from the requirements for child-resistant packaging issued under the provisions of the Poison Prevention Packaging Act.

a. Unflavored Aspirin Powders (PP 87–4, Block Drug Co. Inc.)—A final rule to exempt certain unflavored aspirin powders in unit-dose form containing not more than 15.4 grains of aspirin per unit dose.

b. Medroxyprogesterone Acetate Tablets (PP 88–1, Upjohn Co.)—A final rule to exempt medroxyprogesterone acetate tablets.

c. Acetaminophen Tablets (PP 87–2, Miles Laboratories)—A final rule to exempt certain acetaminophen tablets containing less than 15% acetaminophen.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Dated: March 21, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90–6924 Filed 3–22–90; 2:06 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 55, page 10139, March 19, 1990.

PREVIOUSLY ANNOUNCED DATE OF MEETING: March 22, 1990.

CHANGES: The meeting was canceled.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Dated: March 21, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90–6925 Filed 3–22–90; 2:06 pm]

BILLING CODE 6355–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, March 27, 1990, to consider the following matter:

Memorandum and resolution re: FDIC Statement of Policy on Assistance to Operating Insured Banks and Savings Associations, which statement of policy (1) replaces FDIC's Operating Bank Assistance Policy Statement; (2) reflects (a) the Corporation's experience since 1986 with assisted transactions pursuant to section 13(c) of the Federal Deposit Insurance Act, and (b) the amendments to section 13 of the Federal Deposit Insurance Act enacted by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and (3) establishes specific criteria for eligibility for assistance.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: March 21, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90–6845 Filed 3–21–90; 4:57 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:00 p.m. on Tuesday, March 20, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in open session to consider an open thrift assistance policy.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency) and Director Salvatore R. Martoche (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matter on less than seven days' notice to the public and that no earlier notice of the meeting than that previously provided on March 14, 1990, was practicable.

At that same meeting, the Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and resolution re: Amendment to the Corporation's rules and regulations in the form of a new Part 357, entitled "Determination of Economically Depressed Regions," which interim rule identifies those geographical regions which the Corporation has determined to be "economically depressed regions" for purposes related to Corporation assistance for certain troubled thrift institutions prior to the appointment of a receiver or conservator.

By the same majority vote, the Board further determined that no notice earlier than March 16, 1990 of this change in the subject matter of the meeting was practicable.

The Board further determined, by the same majority vote, that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the open thrift assistance policy and that no earlier notice of this change in the subject matter of the meeting was practicable.

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: March 21, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90–6875 Filed 3–22–90; 11:28 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:32 p.m. on Tuesday, March 20, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Application of Beloit Savings Bank, Beloit, Wisconsin, for consent to change the general character of business from a mutual savings bank to a commercial bank pursuant to Part 333 of the Corporation's rules and regulations.

Memorandum and resolution re: Delegation of authority regarding applications for consent to change the general character of business of a state nonmember insured bank (except a district bank), or a branch thereof.

Administrative enforcement proceedings.

Matters relating to the probable failure of certain insured banks.

Memorandum re: Authorization of expenditure for outside instructional services in a Modified Real Estate Appraisal School (REAS).

Matters relating to a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

Memorandum regarding the Corporation's corporate activities.

A personnel matter.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director Salvatore R. Martoche (Director of the Office of Thrift Supervision) and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: March 21, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-6876 Filed 3-22-90; 11:28 am]

BILLING CODE 6714-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 9:30 a.m., Thursday, March 29, 1990.

PLACE: Chairman's Office, 6th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 90-6926 Filed 3-22-90; 2:06 pm]

BILLING CODE 7535-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that on Tuesday, March 20, 1990, at 2:47 p.m., the Board of Directors of the Resolution Trust Corporation met in closed session to consider certain matters pertaining to the resolution of five thrift institutions and other matters related to thrift resolutions.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Salvatore R. Martoche, (Acting Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days notice to the public, that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: March 20, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-6846 Filed 3-21-90; 4:57 pm]

BILLING CODE 6714-01-M

RESOLUTION TRUST CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Resolution Trust Corporation determined, by unanimous vote, that Corporation business required, on less than seven days notice to the public, the withdrawal from the March 20, 1990 open agenda, the memorandum regarding the Early Assistance Policy; and that no earlier notice than March 19, 1990 of this change in the subject matter of the meeting was practicable.

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: March 21, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-6874 Filed 3-22-90; 11:28 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [55 FR 9823 March 15, 1990].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC

DATE PREVIOUSLY ANNOUNCED: Monday, March 12, 1990.

CHANGE IN THE MEETING: Rescheduling.

A closed meeting scheduled for Tuesday, March 20, 1990, at 2:30 p.m., as been rescheduled for Wednesday, March 21, 1990, at 3:30 p.m.

Commissioner Fleischman, as duty officer, determined that Commission business required the above change.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Holly Smith at (202) 272-2100.

Dated: March 16, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-6843 Filed 3-21-90; 4:57 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 55, No. 58
Monday, March 26, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children (WIC); Food Cost Containment Requirements

Correction

In rule document 90-6044 beginning on page 9709 in the issue of Thursday, March 15, 1990, make the following corrections:

1. On page 9709, in the third column, in the second complete paragraph, in the second line, "246.6(a)(14)(x)" should read "246.4(a)(14)(x)".

2. On page 9711, in the 3rd column, in the 2nd paragraph, in the 27th line, "debate" should read "rebate".

3. On page 9714, in the 1st column, in the 25th line, "an" should read "and".

4. On page 9715, in the third column, in the next to last line, "expecte" should read expected".

§ 246.16 [Corrected]

5. On page 9717, in the 3rd column, in § 246.16(m)(2)(i)(A), in the 14th line, "exceed" should read "exceeds".

6. On page 9718, in the first column in § 246.16(m)(2)(i)(C), in the fourth line, after "its" insert "estimate of".

7. On the same page, in the same column, in § 246.16(m)(2)(ii), in the second line, after "from" insert "food".

8. On the same page, in the 2nd column, in § 246.16(o)(2), in the 13th line, "these" should read "those".

9. On the same page, in the same column, in § 246.16(o)(2)(i), in the second line, "May 14, 1990" should read "June 13, 1990".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

University of Mississippi, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 90-6053 beginning on page 9938 in the issue of Friday, March 16, 1990, make the following correction:

On page 9939, in the first column, in the sixth line from the bottom, the *Docket number* "89-158" should read "89-162".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Parts 353 and 355

[Docket No. 91033-9233]

RIN 0625-AA32

Antidumping and Countervailing Duties

Correction

In rule document 90-5318 beginning on page 9046 in the issue of Friday, March 9, 1990, make the following corrections:

On page 9046, in the first column, under **EFFECTIVE DATES**, in the second and third lines, [insert date of publication in **Federal Register**] should read "March 9, 1990". In the fourth through sixth lines [insert date 60 days after date of publication in the **Federal Register**] should read "May 8, 1990".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Implementation of Special Refund Procedures

Correction

In notice document 90-5212 beginning on page 8185 in the issue of Wednesday, March 7, 1990, make the following correction:

On page 8187 in the second column, in paragraph c. *Medium-Range Refiner, Reseller and Retailer Claimants.* in the fifth line, immediately after "$5,000" insert "may elect to receive as its refund either $5,000".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substance and Disease Registry

[Announcement 016]

Public Health Conference Support Grant Program

Correction

In notice document 90-3480 beginning on page 5275 in the issue of Wednesday, February 14, 1990, make the following correction:

On page 5276, in the first column, in the third complete paragraph, in the third line, after "sector," insert "to provide".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 453

[Docket No. 90N-0015]

Antibiotic Drugs; Clindamycin Phosphate Injection

Correction

In rule document 90-3850 beginning on page 5841 in the issue of Tuesday, February 20, 1990, make the following correction:

On page 5841, in the third column, in the first complete paragraph, the last line should read "document and filed with the Dockets Management Branch."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Members on Public Advisory Committees; Generic Drugs Advisory Committee

Correction

In notice document 90-3849 appearing on page 5893 in the issue of Tuesday, February 20, 1990, make the following correction:

On page 5893, in the third column, in the first complete paragraph, in the ninth line, "trails" should read "trials".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430 and 455

[Docket No. 89N-0495]

Antibiotic Drugs; Mupirocin Ointment

Correction

In rule document 90-1732 beginning on page 2640 in the issue of Friday, January 26, 1990, make the following corrections:

1. On page 2640, in the second column, in **FOR FURTHER INFORMATION CONTACT:** the first line should read "Peter A. Dionne, Center for Drug."

2. On page 2641, in the first column, in the authority citation to part 430, the fourth line should read "secs. 215, 301, 351 of the Public Health".

3. On the same page, in the same column, in amendatory instruction 2. the second line should read "new paragraph (a)(61) to read as follows:".

§ 455.40 [Corrected]

4. On page 2641, in the second column, in § 455.40(a), the eighth line should read as follows: "[2*a(E)*,3*B*,4*B*,5*a*[".

5. On the same page, in the same column, in § 455.40(a)(1)(iii), in the first line "the" should be capitalized.

6. On page 2642, in the second column, in § 455.40(b)(2), in the second line "Chapter" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 90-ASW-1]

Proposed Establishment of Restricted Area R-6320 Matagorda, TX

Correction

In proposed rule document 90-5146 beginning on page 8151 in the issue of Wednesday, March 7, 1990, make the following correction:

On page 8151 in the second column, under "**Comments Invited**", in the 9th line, the phone number should read "(202) 566-5371".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8287]

RIN 1545-AM56

Treatment of Certain Losses Attributable to Periods After October 31 of a Taxable Year of a Regulated Investment Company

Correction

In rule document 90-2220 beginning on page 3211 in the issue of Wednesday, January 31, 1990, make the following corrections:

§ 1.852-11 [Corrected]

1. On page 3215, in the first column, under § 1.852-11T(*f*)(4), in the 18th line, remove "a".

2. On page 3216, in the first column, under *Example (4)* of paragraph (h)(iii), in the 13th line, remove the first "and" and add "the".

BILLING CODE 1505-01-D

federal register

Monday
March 26, 1990

Part II

Department of Labor

Employment and Training Administration

Federal-State Unemployment Compensation Program; Procedures for Release of Benefits Quality Control Data; Notice

DEPARTMENT OF LABOR

Federal-State Unemployment Compensation Program; Procedures for Release of Benefits Quality Control Data

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of procedures for release of benefits quality control data for Unemployment Insurance Program.

SUMMARY: On March 9, 1989 the Department published procedures in the **Federal Register** at 54 FR 10128 for the release of Benefits Quality Control (BQC) data for the Unemployment Insurance (UI) system. This notice refines and extends those procedures for the publication of BQC data for Calendar Year (CY) 1989.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Charles L. Atkinson, Director, Office of Quality Control, Employment and Training Administration, Unemployment Insurance Service, U.S. Department of Labor, Room S–4015, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 535–0220 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The BQC program is based on a statistical sample of weeks compensated by State employment security agencies (SESAs). From the information gathered by in-depth reviews of these samples, the performance of a State's UI benefits system is evaluated in terms of weeks and dollars that were properly or improperly paid.

The regulation to establish the BQC program for the Federal-State UI system was published in the **Federal Register** at 52 FR 33520 on September 3, 1987. Section 602.21(g) of the regulation provides that each State shall:

> Release the results of the BQC program at the same time each year, providing calendar year results using a standardized format to present the data as prescribed by the Department; States will have the opportunity to release this information prior to any release by the Department.

On September 4, 1987, the Department published a notice in the **Federal Register** at 52 FR 33784 which requested public comment on issues relating to the format, method, and timing of the release. Based upon responses received from interested parties, the Department published another notice in the **Federal Register** at 53 FR 17515 on May 17, 1988, proposing procedures and format for displaying BQC data and inviting comments on them.

On March 9, 1989, the Department published the final procedures for the release of BQC data at 54 FR 10128.

On June 30, 1989, the States released the BQC data for Calendar Year 1988. The Department published a compendium of the State releases in July and a notice of availability of the State releases in August. The notice listed the names, addresses, and telephone numbers of contact persons in each State who could provide the State's release and any necessary explanations.

Clarifications for Calendar Year 1989 Report

1. Procedures for the release of data

The Department will continue the policy that States shall release the data prior to release by the Department. The Department would like to commend States on their positive response to the requirement to release their data. In 1989, the majority of the SESAs met both the letter and the spirit of the requirement to release their UI BQC data to all interested parties, including employers, labor organizations, and others who have expressed an interest in the UI program. Releases were provided to the major print media in their States with full details including standard footnotes and confidence intervals. Some States included additional information on cause and responsibility for the errors reported. However, a small minority of States released their data to a very limited audience which greatly restricted the ability of interested parties to learn how accurately they are paying benefits to UI claimants. Still other States released data showing comparisons with other States, which did not recognize the general principle that comparisons cannot be made due to differences in State laws.

Since the UI BQC program includes the principle that the Department would not take any sanctions based on error rate levels, but rather that States releasing their data is an incentive to address issues behind error rates, the Department strongly encourages all States to make the complete Calendar Year 1989 data available to as wide an audience as possible. To ensure that there is no confusion as to the intent of the requirement to publish the BQC data, the following clarifications are provided: States must use the format in the Appendix of this notice to release the BQC data. The release must include, at a minimum, the total dollars paid in benefits by the SESA in the calendar year, the sample size, proper payment rates, overpayment rates, underpayment rates, confidence intervals, footnotes generated by the BQC Annual Report software as prescribed by the Department. Narrative comments may be included at the SESA's option. SESAs are not required to pay for the publication of the data and, in a change from last year, are not required to publish a notice of availability.

2. Formal Warnings

At the present time, the BQC sampling process classifies individual payments that might have been classified as overpaid as formal warnings, under formal warning rules that prohibit official action. These formal warnings are then counted for certain claimant lapses as proper payments for the annual report. We are not changing the treatment of formal warnings at this time, but we are concerned that our position needs examination. It could be argued that this treatment of formal warnings as proper is illogical since the initial failure to comply with procedures constitutes an error, regardless of whether official action is taken. We are also concerned about the possible perverse effects on SESA procedures if a number of States adopt these policies. For the 1990 report on CY 1989 data, formal warnings will continue to be shown as proper payments. The Department will publish State formal warning data in its compendium of data. The Department will issue a **Federal Register** notice shortly seeking public comments on this and other issues affecting the BQC effort.

Procedures and Format for Releasing Benefits QC Data

1. State Release of Data

Each State will release the required data annually through established channels for disseminating State performance data using the format provided in the Appendix to this notice. In accordance with established State procedures, the data must be released to those who normally receive performance/evaluation data and to anyone else who requests it.

The release of data must include, at a minimum, the total dollars paid in benefits by the SESA in the calendar year (the population), the number of cases completed for BQC investigations (the sample size), and rates for proper payments, overpayments, and underpayments along with the boundaries within which true population rates may be assumed to lie (the confidence interval). In addition, technical footnotes regarding the data

must be released. For purposes of the annual report, the categories listed above are defined as:

a. *Total Dollars Paid in the Population.* The amount of benefits paid during weeks that end in the calendar year for the programs included in BQC (UI, UCFE, UCX). These payments form the universe from which samples are selected.

b. *Sample Size.* The number of completed BQC cases from batches with week ending dates in the calendar year.

c. *Proper Payment Rates.* The estimated total of dollars paid properly is shown as a percentage of total dollars paid in the population. These include amounts of payments coded as proper as defined in section 3d(1) of the Error Classification chapter in ET Handbook No. 395. It also includes from section 3d(2) those dollars paid properly, part of which were from claims paid improperly; e.g., $120 payment with $10 overpayment=$110 paid properly.

Additionally, the following payments classified as improper in section 3d(2) are included in the proper payment rate:

—Subsection (a)14: Pertain to issuance of "formal warnings" to claimants rather than denial of payment.

—Subsections (a)16 and (b)23: Pertain to overpayments and underpayments established as a result of the BQC investigations which, upon appeal, were officially modified by a higher SESA authority, although the QC unit disagrees with this modification.

d. *Overpayment Rates.* The percentage of dollars overpaid is obtained from those payments coded under section 3d(2)(a) of the Error Classification chapter, but excludes codes 14 and 16.

e. *Underpayment Rates.* The percentage of dollars underpaid is obtained from those payments coded under section 3d(2)(b) of the Error Classification chapter, but excludes code 23.

Because the BQC system accepts coding for up to three errors per case, in cases with multiple errors, the total dollars affected (for up to three errors per case) will be used in the computations of overpayments, as long as the amount originally paid is not exceeded. (For example, assume a weekly payment of $120 was found to have two errors. The first was a missed separation issue that should have disqualified the claimant; this amounts to an overpayment of $120. The second was unreported earnings during the key week resulting in an overpayment of $30. The total dollar overpayment would be limited to $120.) If both an overpayment and an underpayment occur in a single case, the dollar amount overpaid will be used, up to the amount originally paid, and the total dollars underpaid will be used to estimate the underpayment rate, which will be expressed as a percentage of total dollars paid in the population.

The upper and lower bounds of the 95 percent confidence intervals will be shown for each rate as plus or minus a percentage point(s). The State may include additional data, narrative explanations, and plans for program improvement.

If a State fails to release data in accordance with the above-state procedures, the Department, in its annual review of State BQC operations as specified in 20 CFR, part 602, § 602.31, will take appropriate action which could lead to the application of proceedings.

2. Federal Release of Data

The Department will publish a digest of States' performance data. The report will be transmitted through normal channels to components of the Department and to the SESAs. Concurrently, the Department will announce the availability of this data through a notice published in the **Federal Register** and make all the data available to anyone who requests it. The report published by the Department will include, but is not limited to, all the data that the States are required to release. The upper and lower bounds of the 95 percent confidence interval will be shown together with each rate. Uniform footnotes to each State report will indicate minor data deficiencies; a separate entry in the report will be used for major deficiencies in the data.

The report will contain an introduction with explanations of how the data should be interpreted which cautions about inappropriate comparisons of data among States. The data will be presented alphabetically by State in order to discourage rankings and comparisons.

The rates will be calculated by the Department and transmitted to the States for review prior to publication. States will be given a minimum of 21 calendar days to inform the Department if they disagree with the calculations. States may also submit optional narratives for inclusion in the report during this specified period of time. States are encouraged to include program improvement information in the optional narratives for inclusion in the Federal release of data. The Department will issue more detailed instructions through official directives.

Signed at Washington, DC on March 16, 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

Appendix—Format for QC Data Release

TOTAL DOLLARS PAID IN POPULATION

[Sample Size]

	Percentage of dollars	Confidence interval
Proper payments		
Overpayments		
Total	100.0%	
Underpayments		

Footnotes.
Narrative Comments (Optional).

[FR Doc. 90-6701 Filed 3-23-90; 8:45 am]
BILLING CODE 4510-30-M

federal register

Monday
March 26, 1990

Part III

Department of Labor

Employment and Training Administration

Job Training Partnership Act (JTPA): Migrant and Seasonal Farmworker (MSFW) Programs; Setting Grantee Performance Standards for Program Year (PY) 1990; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act (JTPA): Migrant and Seasonal Farmworker (MSFW) Programs; Setting Grantee Performance Standards for Program Year (PY) 1990

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice; opportunity for comment.

SUMMARY: For Program Year 1990 (July 1, 1990–June 30, 1991), the Department of Labor plans to retain the existing standard-setting methodology for assessing JTPA section 402 grantee performance. PY 1990 will be the second year of the current designation cycle for JTPA grantees; hence, using the same performance standards system will provide continuity over the full two years.

Subject to further review and public comment, however, the Department is considering one revision aimed at simplifying the rating categories used in the scoring of grantee performance. The revision now under consideration is to discontinue the "Exemplary" level rating in assessing grantee performance on the two outcome measures, Entered Employment Rate (EER) and Cost per Entered Employment (CEE).

DATES: *Effective Date:* July 1, 1990.

Comments: Interested persons are invited to submit comments. Comments must be received by the Department of Labor no later than April 15, 1990.

ADDRESSES: Comments should be addressed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Ernest Hodgkins, Room N5637.

FOR FURTHER INFORMATION CONTACT: Ernest Hodgkins, Telephone: 202–535–0685 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 402 of the Job Training Partnership Act (JTPA) establishes federally funded employment and training programs for Migrant and Seasonal Farmworkers (MSFW) to enable farmworkers and their dependents to obtain certain services including unsubsidized employment.

Prior to PY 1987, minimum standards for MSFW grantees were based on their performance in the prior year. Thus, grantees who had performed at high levels in the prior year were held to high standards even though their labor market conditions or client characteristics may have changed in the subsequent period. Conversely, those grantees performing at lower levels in previous years had much easier standards with little incentive to improve from one year to the next.

PY 1987–88 represented a period of transition to a new model-based standard-setting approach. This approach provides quantifiable, objective and equitable adjustments to performance standards to account for a number of factors including: grantee size (number of terminees) terminee characteristics, and local economic conditions. The current program year (PY 1989) was the first year in which grantee standards were based fully on the adjustment models for each measures.

Model-based performance estimates are distributed to grantees twice each program year. First, as part of the planning process prior to the beginning of each program year, grantees are provided with performance estimates for use in establishing their performance targets for each measure. Second, as part of the assessment phase after each program year ends, final standards are calculated for each grantee based on the program data and actual performance reported during the year just completed.

Experience indicates that the adjustment models are proving to be an objective and flexible method for setting MSFW grantee performance standards at reasonable and realistic levels. Several more years of Migrant and Seasonal Farmworker Annual Status Report data now have been accumulated so that statistical relationships between grantee outcomes, program activity patterns, and terminee characteristics can be estimated more reliably than was possible in previous years.

The Department believes that it would be appropriate and highly desirable to continue using the current adjustment models during Program Year 1990. Using the same adjustment factors for both years in a two-year designation cycle is consistent with the Department's desire to reduce or eliminate systemwide disruptions that annual changes in the standards-setting process may create. This would also allow more time to determine if further refinements are necessary to the performance standards system. Thus, any changes in the standard-setting process will be deferred until the start of the next designation cycle (PY 1991–1992).

In this regard, the Department intends to solicit additional input from section 402 grantee representatives, and other appropriate parties, in the very near future by establishing an ad hoc work group that would review the two current measures (EER and CEE) for their continued applicability to assess program goals and objectives. Possible changes in the adjustment factors and/or the performance standards measures to be used in future designation cycles will be explored.

Proposed Revisions for Program Year 1990

The Department expects to issue performance standards planning instructions to grantees shortly after completion of the comment period for this notice. Initial performance standards worksheets are included as part of these planning instructions. The Department is proposing that no changes be made in the PY 1990 performance standards, except the following:

The Department of Labor is proposing a change in rating categories used to score grantee performance. This proposed change would eliminate the "Exemplary" level which is currently one of four performance levels used to rate grantee performance in section 402 programs. There is some concern as to whether the use of the "Exemplary" rating may induce some grantees to achieve higher performance at the expense of providing participants with needed additional services or training.

The three new rating levels would be as follows:

- Meets or exceeds "Recommended Performance Goal",
- Meets or exceeds "Minimally Acceptable Level",
- Below Minimum Standard.

The elimination of the "Exemplary" rating level would not affect the basic modeling process or structure. Deleting this rating category may preclude or reduce artificial efforts by some grantees to attain an "Exemplary" rating by avoiding situations which call for providing more intensive services to given participants. Since no monetary or other special incentives are presently available to recognize MSFW grantees achieving the "Exemplary" category, there appears to be little compelling need to retain this rating category in assessing grantee accomplishments on the required performance measures.

One possible negative implication to removing the "Exemplary" level is that such action might discourage grantees from striving for better performance levels in serving their participants. If this were to happen, it could reduce or reverse the consistent pattern of

improved performance achieved by MSFW grantees over the last several program years.

Grantee comments are requested in response to this notice to assist the Department in determining if this "Exemplary" rating level should be eliminated starting in PY 1990, or whether it should be retained for PY 1990 pending further consultation and review.

PY 1990 Planning Instructions

Pending receipt and review of comments in response to this notice, the Department will determine whether to proceed with the above-mentioned change being considered or whether such change should be deferred until a later time. The Department presently plans to issue PY 1990 performance standards planning instructions upon conclusion of the comment period, including the initial worksheets for grantees to use in submitting their projected performance goals for PY 1990.

Signed at Washington, DC this 12th day of March 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 90-6702 Filed 3-23-90; 8:45 am]

BILLING CODE 4510-30-M

federal register

Monday
March 26, 1990

Part IV

Department of Transportation

49 CFR Part 27

Nondiscrimination on the Basis of Handicap in Federally-Assisted Programs; Proposed Rule

DEPARTMENT OF TRANSPORTATION

49 CFR Part 27

[Docket 46861; Notice 90-15]

RIN 2105-AB53

Nondiscrimination on the Basis of Handicap in Federally-Assisted Programs

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Department is proposing to amend the portion of its rule to implement section 504 of the Rehabilitation Act of 1973, as amended, concerning Federally-assisted mass transit services. The proposed amendment responds to a Federal court decision concerning the present regulation on this subject and Department of Transportation policy to improve transportation accessibility for handicapped persons.

DATES: Comments should be received by May 25, 1990. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent to Docket Clerk, Docket No. , Department of Transportation, 400 7th Street SW., Washington, DC 20590, Room 4107. For the convenience of persons who will be reviewing the docket, it is requested that commenters provide duplicate copies of their comments. Comments will be available for inspection at this address Monday through Friday from 9 a.m. through 5:30 p.m. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The docket clerk will date-stamp the postcard and mail it to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Room 10424, Washington, DC 20590. Telephone 202-366-9306 (voice); 202-755-7687 (TDD). Taped copies of the NPRM are available on request.

SUPPLEMENTARY INFORMATION:

Background

Since 1977, the Department has issued a series of regulations to implement section 504 of the Rehabilitation Act of 1973, section 16 of the Urban Mass Transportation Act, and related statutes with respect to mass transit services for persons with disabilities. A 1977 Urban Mass Transportation Administration (UMTA) regulation required Federally-funded transit authorities to make "special efforts" to provide transportation services to such persons. In 1979, the Department replaced the 1977 rule with a regulation to require the purchase of accessible buses and the retrofit of rail mass transit systems for accessibility. In a suit brought by the transit industry, the courts found that the 1979 rule exceeded the Department's authority under section 504 by imposing undue financial burdens on transit authorities.

In 1981, in response to this court decision, the Department published an interim final rule that, in effect, revived the 1977 "special efforts" approach. Responding to concerns that service provided by transit authorities under this rule was inadequate, Congress added a new section 16(d) to the UMTA Act in 1983. The new section did not require equal access to transit for disabled persons or even comparable service. It did require the Department to issue a new rule containing minimum service criteria for service to disabled passengers.

The Department issued a rule to implement this statute in 1986. The rule contained six service criteria. In addition, to avoid the "undue burdens" problem that had resulted in the demise of the 1979 rule, the rule included a "cost cap". The cost cap provided that a transit authority did not have to spend more than three percent of its operating budget to comply with the rule, even if, as a result, the transit authority did not fully meet all the service criteria.

Last year, the U.S. Court of Appeals for the Third Circuit determined that, while it was appropriate for the Department to take costs into account in formulating the rule, the three percent cost cap mechanism was arbitrary. The court directed the Department to revise the rule consistent with its opinion. The rule remains in effect pending the promulgation of a new final rule. The Department and the plaintiffs have stipulated that a final rule will be in place by mid-September, 1990.

Meanwhile, in connection with Congressional consideration of a bill to establish the "American with Disabilities Act" (ADA), the Department articulated its support of policies that would substantially improve access to mass transit services for handicapped persons. These policies included requiring all new buses to be accessible, requiring supplemental paratransit service that was comparable to the service for the general public for persons who could not use the fixed route transit service, and providing a means to allow transit authorities to avoid undue financial burdens resulting from supplemental paratransit service.

The Department is firmly committed to these policies, both as they are expressed in pending legislation and as appropriate responses to section 504 and section 16. Consequently, the Department is proposing to replace the existing mass transit regulation with one that adopts these policies. Because of the Department's commitment to these policies, and because we believe that existing legal authority is sufficient to support a regulation putting them into practice, it is the Department's intention to proceed with amended regulations (subject, of course, to public comment) even in the absence of new legislation.

Before publishing a final rule, the Department intends to complete, and make available for public comment, a detailed analysis of the various options set out in this proposal. The Department is particularly interested in data concerning the magnitude and distribution of benefits and costs of the alternatives under consideration in the following areas:

Accessibility features:

—Alternative lifts and securement devices and the types of wheelchairs they can accommodate

Supplemental paratransit:

—Eligible populations: alternative definitions and respective population sizes

—Service criteria: alternative response times

—Undue burdens: alternative measures and cutoffs to determine undue burden

Section by Section Analysis

Section 27.81 Vehicles for Fixed-Route Systems

Paragraph (a) states that all new passenger motor vehicles, whether purchased or leased, would have to be accessible. Under paragraph (b), there would have to be demonstrated good faith efforts to ensure accessibility in acquiring used vehicles. The Department seeks comment on whether a final rule should specify what constitutes adequate documentation of good faith efforts (e.g., language seeking such vehicles in solicitations, phone calls to potential sources). Remanufactured vehicles (paragraph (c)) whose life was extended five years or more would have to be accessible, to the maximum extent feasible.

Section 27.83 Accessibility Features

Under paragraph (a), new vehicles would have to have the accessibility

features mandated by applicable provisions of 49 CFR 609.15 (e.g., priority seating for elderly and handicapped persons, appropriate handrails and interior lighting). Paragraph (b) would add the obvious requirement that accessible vehicles must have a lift or another device that would provide equivalent access to the vehicle (e.g., a ramp or ramp/kneeling feature combination). A recipient would comply with this requirement if it bought an inaccessible vehicle and added its own lift before putting the vehicle into revenue service; no waiver would be needed in this situation.

This paragraph also contains a requirement adopted from the Appendix of the current rule. Lifts and securement devices must be able to accommodate all types of wheelchairs in common usage. This requirement is based on the principle that, under nondiscrimination law, transit authorities are not released from their obligation to provide service because the handicapped passenger chooses a particular device to meet his or her mobility needs.

In some localities, transit authorities have denied access to users of some types of wheelchairs on the basis that lift or securement devices could not safely accommodate their equipment. In other cases, transit authorities have reportedly required persons to transfer from their own wheelchair to a bus seat because securement devices were allegedly inadequate. This provision is intended to require that bus equipment be capable of handling electric wheelchairs, three wheel "scooter" devices and other designs in common use. Otherwise, the vehicles could not fairly be said to be accessible.

The Department seeks comment on this general issue. We also seek comment on specific issues concerning lifts and securement devices. What is the current technological status of lifts and securement devices as they relate to three-wheel "scooter" wheelchairs? In addition to the "scooters," what other types of wheelchairs present problems (e.g., electric vs. manual chairs)? What technological means could be brought to bear to solve these problems? Are wheelchair-based securement systems possible that would solve the problem (e.g., improved brakes and/or occupant restraint systems, a mechanism on a wheelchair that would attach to a vehicle fixture)? What is the likelihood of creating securement devices that could adjust to fit various kinds and sizes of wheelchairs? To what extent are safety fears about securement devices really justified (e.g., by actual liability experience)? Can users of wheelchairs, or some types of wheelchairs, continue to sit in their wheelchairs reasonably safely in the absence of securement devices, just as other passengers sit without securement devices in regular seats?

Paragraph (c) allows a waiver of the lift requirement for new vehicles if four conditions are met. These conditions pertain to a situation in which, after diligently seeking lifts for new buses, the transit authority cannot find anyone to supply them in a timely fashion and delay in purchasing the buses to wait for lifts would significantly impair transportation service in the community. This provision is intended to cover a situation, which could occur in the near term, of insufficient lift manufacturing capability.

The waiver process has several safeguards. Waivers would not be open-ended, but would apply only to a specific vehicle procurement. For the next procurement, the transit authority would have to re-apply for a waiver, since circumstances might well have changed. The Department would notify the appropriate Congressional Committees, would cancel any waiver based on fraudulent information, and could take other appropriate action (e.g., referral for prosecution in the case of fraud).

Section 27.85 Demand-Responsive Systems for the General Public

A requirement to purchase or lease new accessible vehicles would also apply to demand-responsive systems for the general public. The requirement to have a lift or equivalent device on a newly purchased vehicle would not apply, in this context, if the transit authority could demonstrate that its system, when viewed in its entirety, provides a level of service to passengers with disabilities equivalent to that provided other persons. In the case of section 18 recipients, this showing could be made to the section 18 State agency. In other cases, the demonstration would be made to the Regional UMTA Administrator. In any case, the demonstration must be made prior to the purchase of a vehicle that is not lift-equipped.

Particularly among section 18 recipients and other recipients in rural and small city settings, traditional fixed route systems are the exception rather than the rule. It is common to have demand responsive service, sometimes in combination with a few fixed routes, or route deviation service as the main mode of service to the general public. As a matter of reasonable program administration, it is advisable to treat these small recipients alike. Therefore, paragraph (c) proposes that small recipients will be treated as demand responsive systems, provided that demand responsive service is a significant part of the overall service to the general public. This would avoid the awkward situation, for example, of applying the requirements of proposed §§ 27.81–27.83 to vehicles used on the system's one fixed route while applying the provisions of this section to other vehicles used in the system.

Often, indeed, the same vehicles may be used in more than one kind of service.

Section 27.87 Supplemental Paratransit

Under the present rule, recipients can choose an accessible bus system *or* paratransit. Under this NPRM, bus systems must be made accessible by the purchase of new accessible vehicles *and* there must be comparable supplemental paratransit for persons who can't use the fixed route system. (The supplemental paratransit requirements apply only to fixed route systems.)

The Department believes that supplemental paratransit should be available to persons who are unable to use fixed route transit. To implement this concept, the Department seeks comment on three approaches. The first would be similar to the paratransit eligibility criterion of the current part 27, limiting eligibility to persons who, if present at the bus stop, could not enter the bus. DOT is also seeking comment on two approaches which would expand the eligible population beyond this point.

One of these is to add to this group persons who might have no physical problem entering on a bus or sitting in it, but who could not use it as transportation (e.g., a blind person who, in the absence of announcement of stops, does not know where to leave the bus; a developmentally disabled person whose cognitive disability prevents him or her from navigating independently from point A to point B). This latter category is not eligible for paratransit services under the current rule. The Department seeks comment on whether to include it.

The other approach would add a third category of persons to the eligible population: those who could use the fixed route system if they could get to a bus stop, but who cannot get to a bus stop (e.g., because of physical or terrain barriers). This option would probably result in higher ridership and costs for the paratransit system. It would also ensure that service would actually be provided to a greater number of

disabled passengers. The Department seeks comment on these options, as well as any other options that commenters would suggest.

The Department intends that other individuals associated with individuals who are eligible for supplemental paratransit would also be eligible. That is, family or friends of a disabled user of supplemental transit would be able to travel on the same paratransit vehicle as the disabled person. The Department requests comments on whether any limits should be placed on this and what those limits should be.

Paragraph (c) contains five service criteria. Three of them (regarding service area, restrictions and priorities based on trip purpose, and times during which service is available) are identical to criteria in the existing rule.

The Department seeks comment on two approaches to the fare criterion. One is similar to the paratransit fare criterion of the existing part 27. It would provide that supplemental paratransit fares would be comparable to the fare charged a user of the fixed route system for a trip of similar length at a similar time of day. As the Appendix to part 27 recognizes, this formulation does not require equal or equivalent fares. The fare could be different based on the differences between special service and fixed route service. The Appendix set forth a rule of reason, pointing out that while a $1.50 paratransit fare might be viewed as "comparable" to an 80-cent bus fare, a $20 paratransit fare would not. The second approach would provide that the fare for paratransit service could not exceed the fare on the fixed route system for a trip of comparable length at the same time of day. The Department seeks comment on the costs and effects of this approach.

The Department also seeks comment on different approaches for the response time criterion. One approach, similar to that of the existing part 27, would be to require a 24-hour response time. Alternatively, the Department could require a shorter response time (e.g., 6 or 2 hours, or a time equivalent to bus headways (i.e., the interval between buses on a route) on the relevant bus route at the relevant time of day). The Department also seeks comment on other potential response time approaches (e.g., different numbers of hours, a phased-in approach in which the response times would grow shorter over a period of years as the supplemental paratransit system develops). Commenters should be aware that studies available to DOT indicate that costs of providing paratransit may escalate significantly as response times fall below 24 hours.

The Department also seeks comment on whether additional criteria should be added to this list. DOT is of the view that service criteria should pertain only to major characteristics of transit service, and not to relatively peripheral details. As under the existing rule, if a transit authority coordinated services by other providers with its own service, the combined service could be used to meet the service criteria.

The Department seeks comment on whether the final rule should include a transition mechanism to cover the potential 10–12 year period before full bus fleet accessibility is achieved (based on the current rate of bus replacement). If so, what transition period requirements should be included? One possibility would be to rely on the supplemental paratransit requirement. Supplemental paratransit must serve persons who cannot use the fixed route system. If a fixed route system today does not have accessible buses, then most disabled persons will have to use the supplemental paratransit system. As the bus fleet becomes accessible, a decreasing percentage of disabled riders will have to use the supplemental system. Such an approach, however, could make planning and budgeting for the supplemental paratransit system difficult, since there could be a rapid build-up and then phasedown of resources for paratransit.

Section 27.89 Undue Financial Burdens of Supplemental Paratransit

One of the most vexing problems in working with accessibility issues has always been determining what constitutes an "undue burden," a concept introduced into the law governing the Department's mass transit accessibility regulations in *American Public Transit Association* v. *Lewis*, 556 F.2d 1271 (D.C. Cir., 1981). DOT can neither ignore financial burdens nor assume that imposing some financial burdens is impermissible.

The Department intends that an undue burden waiver be available only with respect to the cost of providing supplemental paratransit. Capital and operating costs of accessible buses, or other services for handicapped persons, may not figure into the calculation. Also, as under the existing rule, only the recipient's own expenditures are relevant (i.e., the expenditures of the transit authority or department itself for providing mass transit services, as distinct from other expenditures of the local government or other organization of which the transit operation is a part, or as distinct from expenditures by social service agencies or others who provide transportation to some disabled persons); some one else's expenditures are not a burden on the recipient.

We are seeking comment on four options for determining what constitutes an undue burden. All are based on the premise that what makes a cost burdensome is the magnitude of its effect on the recipient's overall operations. The first approach focuses on the extent to which a fare increase for the entire transit system would be necessary to defray the costs of supplemental paratransit. The second focuses on the extent to which service cutbacks made necessary by the cost of paratransit would affect the recipient's overall ridership. The third would focus on the extent to which the cost of paratransit would increase the recipient's deficit, on an overall per rider basis. In each case, in addition to seeking comment on the basic approach, we seek comment on what degree of fare increase, deficit increase or ridership loss should be involved before a burden becomes undue (e.g., 10, 15, 25 or some other percentage). The fourth option is to combine one or more of the other three (e.g., fare increases and/or ridership loss). We also seek additional ideas for what should be viewed as an undue burden in this context. For example, is it practicable to construct a numerical index using such factors as population, population density, residential patterns, current paratransit service levels, and current degree of accessible fixed-route service? If so, how would such a formula work?

When a recipient applies for an undue burden waiver, it must provide documentation on several points to the Secretary. These include the provisions (i.e., service criteria) from which a waiver is being sought and the basis (i.e., in terms of the criterion for what constitutes an undue burden) for the request. (The eligibility criterion would not be subject to waiver.) In addition, the recipient would have to show that other, less expensive, modes of paratransit service delivery are unavailable or impracticable. For example, user-side subsidies are likely to be more cost-effective than publicly operated paratransit. A recipient claiming an undue burden for the costs of the latter would have to show why it could not mitigate the burden by switching to the former.

Finally, the recipient would have to present its plan for ensuring that all services that do not impose an undue burden would be provided. This would presumably include a description of the extent to which the various service criteria would be met. The Department seeks comment on whether other criteria

for granting waivers should be included (e.g., pertaining to other ways of mitigating the burdens). This section would also provide that the Secretary could impose conditions on the grant of a waiver. The grant or denial of a waiver would have to state the reasons for the decision. A waiver would be good for three years, unless the Secretary established a different time period when granting the waiver. To renew a waiver, a recipient would have to make the same showing it made to get the waiver initially.

Section 27.84 Provision of Service,

Section 27.91 Public Participation, and

Section 27.93 Monitoring

These provisions, with minor changes, would be carried over from the parallel sections of the current regulation. They relate to matters required under section 16(d) or, in the case of "provision of service," necessary safeguards to ensure that promised service is actually delivered. These have been modified in light of the fact that the Department is not proposing to require recipients to submit a program for approval, since there would be uniform requirements applicable to all recipients. For example, since recipients are not required to prepare a program, there is no requirement to permit comments on a program.

Other Issues

One legally viable response to the Third Circuit's decision would be to propose a brief amendment to the Department's existing rule. Such an amendment would simply delete all references to the cost cap provision from the existing part 27, retaining the service criteria and transit authorities' option to choose the mode through which service is provided to disabled passengers. The Department seeks comment on whether such an approach, or a variation of it, would be appropriate, particularly as an interim step to conform the existing rule to the court decision before a final rule is ready to be issued based on this NPRM.

If the Department were to take such a step, we seek comment on whether an undue burdens waiver mechanism (e.g., analogous to that proposed in this NPRM) should be included, or whether existing regulatory provisions (i.e., the "Technical Exemptions" authority of § 27.101 or the general exemption authority under 49 CFR 5.11) are adequate to deal with potential undue burden situations. We would also point out that, under the present part 27, a recipient may well be able to avoid an undue financial burden by switching from a relatively more expensive way of providing service (e.g., publicly-operated paratransit) to a relatively less expensive means (e.g., accessible bus or user-side subsidy).

At the time it issued its 1986 rule on mass transit services for handicapped persons, the Department also issued a notice of proposed rulemaking concerning commuter rail services. The Department has not taken final action on this NPRM. Action was not taken during the pendency of the litigation over the 1986 rule since, until that litigation ended, the Department could not be sure of what provisions would be permitted by the courts. Aside from some rail car feature requirements in 49 CFR part 609, there are no current DOT requirements concerning accessibility of commuter rail or other rail system accessibility. Of course, requirements under the Architectural Barriers Act of 1968 apply to new Federally-assisted construction or alteration of rail systems. Nor are there any requirements concerning ferry boats.

The present NPRM is intended to be limited in scope to bus and paratransit systems—the same subject matter as the 1986 rule which it would replace. The Department intends to return to the issue of rail system accessibility following the completion of Congressional action on the ADA, which contains a number of accessibility requirements affecting rail systems.

Regulatory Process Matters

This NPRM proposes a major rule under Executive Order 12291. The NPRM is significant under the Department's Regulatory Policies and Procedures. The Department has prepared a Preliminary Regulatory Impact Analysis in connection with the NPRM, which has been placed in the docket. As noted earlier, the Department will prepare a more detailed analysis in connection with the final rule and make it available for comment before issuing the final rule.

This NPRM would affect state and local governments by requiring accessibility improvements in transit services for individuals with handicaps. The NPRM would also change the existing local option policy to one requiring all recipients to have accessible fixed route bus systems and supplemental paratransit. The Department seeks comment on whether these aspects of the proposal warrant a Federalism Assessment. The rule would have impacts on small entities (i.e., section 18 recipients and other small recipients). Given the provisions concerning paratransit systems for the general public and undue financial burdens, it is difficult to determine whether there will be a significant economic impact on a substantial number of small entities. The Department seeks comment on such impacts. If warranted, the Department will do a Regulatory Flexibility Analysis in connection with the final rule.

This NPRM has been reviewed by the Office of Management and Budget under Executive Order 12291 and the Department of Justice, Civil Rights Division, under Executive Order 12250.

List of Subjects in 49 CFR Part 27

Airports, Civil rights, Handicapped, Highways and roads, Mass transportation, Railroads, Reporting and recordkeeping requirements.

Issued this 20th day of March 1990, at Washington, DC.

Samuel K. Skinner,

Secretary of Transportation.

For the reasons set forth in the preamble, title 49 of the Code of Federal Regulations, part 27, is amended as follows:

PART 27—[AMENDED]

1. The authority citation for part 27 is revised to read as follows:

Authority: Sec. 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); secs. 16(a) and 16(d) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1612(a) and 1612(d)); sec. 165 of the Federal-Aid Highway Act of 1973, as amended (23 U.S.C. 142 nt.).

2. The table of contents for subpart E is revised to read as follows:

Subpart E—Mass Transportation Services for Handicapped Persons

3. Subpart E is revised to read as follows:

Subpart E—Mass Transportation Services for Individuals With Handicaps

§ 27.81 Vehicles for fixed-route systems.

(a) Except as otherwise provided in this subpart, each recipient of Federal financial assistance under section 3, 5, 9, 9A, or 18 of the Urban Mass Transportation Act of 1964, as amended

(the UMT Act), shall ensure that all new passenger motor vehicles for which solicitations are issued, or leases signed, more than 30 days after the effective date of this subpart, for use in fixed route mass transportation service for the general public, are readily accessible to and usable by individuals with handicaps, including individuals who use wheelchairs.

(b) If such a recipient purchases or leases a used vehicle for use in fixed route mass transportation to the general public after the effective date of this section, the recipient shall make demonstrated good faith efforts to acquire a used vehicle that is readily accessible to and usable by individuals with handicaps, including individuals who use wheelchairs.

(c) If such a recipient remanufactures a vehicle for use in fixed route mass transportation to the general public so as to extend its useful life for five years or more, or purchases or leases such a remanufactured vehicle, the vehicle shall, to the maximum extent feasible, be readily accessible and usable by individuals with handicaps, including individuals who use wheelchairs.

§ 27.83 Accessibility features.

(a) To constitute an accessible vehicle for purposes of § 27.81 of this subpart, a vehicle shall incorporate the applicable accessibility features set forth in 49 CFR 609.15 (d)–(i).

(b) Except as provided in paragraph (c) of this section, to constitute an accessible vehicle under § 27.81 of this subpart, a new vehicle shall be equipped with a lift or other device making the vehicle readily accessible to and usable by individuals who use wheelchairs. The lift or other device and securement facilities (both on the lift or other device and in the interior of the vehicle) shall be capable of accommodating all types of wheelchairs in common use by individuals with handicaps.

(c)(1) The Secretary may waive the requirement for a lift or other device on a new vehicle as provided in this paragraph. Such a waiver applies only to the particular vehicle purchase to which the waiver request pertains. The Secretary shall notify appropriate Congressional committees of any waiver granted under this paragraph. The Secretary shall cancel any waiver which has been granted under this paragraph, and take other appropriate steps, if the Secretary determines that there is reasonable cause to believe that the waiver was fraudulently applied for.

(2) A waiver may be granted if the recipient demonstrates—

(i) That the initial solicitation for new vehicles specified that the vehicles were to be lift-equipped or otherwise accessible to and usable by individuals with handicaps;

(ii) The unavailability from any qualified manufacturer of hydraulic, electro-mechanical, or other lifts, or other devices providing equivalent accessibility, for such new vehicles;

(iii) That the recipient has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of the vehicles in sufficient time to comply with the solicitation; and

(iv) That any further delay in purchasing new vehicles to permit obtaining the lifts would significantly impair transportation services in the community the recipient serves.

§ 27.85 Demand responsive systems for the general public.

(a) Except as provided in paragraph (b) of this section, each recipient of Federal financial assistance under section 3, 5, 9, 9A, or 18 of the Urban Mass Transportation Act of 1964, as amended (the UMT Act), shall ensure that all new passenger motor vehicles for which solicitations are issued, or leases signed, more than 30 days after the effective date of this subpart, for use in demand responsive mass transportation service for the general public, are readily accessible to and usable by individuals with handicaps, including individuals who use wheelchairs.

(b) New vehicles purchased or leased under this section must have the accessibility features set forth in § 27.83 (a) and (b). However, if the recipient demonstrates that its system of mass transportation, when viewed in its entirety, provides a level of service to individuals with handicaps equivalent to that provided to the general public, lifts or devices providing equivalent accessibility are not required in the vehicles. This demonstration shall be made, in the case of recipients of funds under section 18 of the UMT Act, to the State section 18 agency. In other cases, this demonstration shall be made to the UMTA Regional Administrator.

(c) For purposes of this subpart, a demand-responsive system includes, for recipients providing service to the general public only in areas of 50,000 population or less, a system in which a significant portion of all service is provided in direct response to requests from passengers, even if some service is provided on fixed routes.

§ 27.87 Supplemental paratransit.

Recipients subject to the requirements of § 27.81 who operate a fixed route bus transportation system for the general public shall provide supplemental paratransit as provided in this section.

(a) *Eligibility.* Any individual with handicaps who is unable to use the fixed route bus transportation system provided by the recipient for use by the general public shall be eligible to use the supplemental paratransit system, as shall other persons associated with such an individual. For purposes of this paragraph, inability to use the fixed route system means—

Option 1—that an individual with handicaps, if present at a bus stop, cannot enter the bus;

Option 2—[The language of Option 1 plus] that such an individual, if on the bus, cannot use the system to reach his or her intended destination because of a vision impairment or mental disability, or cannot safely be transported;

Option 3—[The language of Option 1 or Options 1 and 2 plus] or that such an individual, because of physical or terrain barriers, or other obstacles or conditions beyond his or her control, is unable to reach a bus stop.

(b) *Service criteria.* The recipient's supplemental paratransit service shall meet the following service criteria:

(1) There shall be no restrictions or priorities based on trip purpose;

(2) *Option 1*—The fare for a trip charged to a user of the supplemental paratransit service shall be comparable to the fare for a trip of similar length, at a similar time of day, charged to a user of the recipient's fixed route bus system.

Option 2—The fare for a trip charged to a user of the supplemental paratransit service shall not exceed the fare for a trip of similar length, at a similar time of day, charged to a user of the recipient's fixed route bus system.

(3) Service shall be available throughout the same hours and days as service on the fixed route bus system;

(4) Service shall be available throughout the same circumferential service area in which the fixed route bus system provides service (exclusive of extended express or commuter bus service) and to points outside this service area served by extended express or commuter bus service;

(5) Following a request by an eligible individual for service, the service shall be provided within

Option 1—24 hours
Option 2—6 hours
Option 3—2 hours
Option 4—a time not to exceed the scheduled interval between buses on the bus route relevant to the individual's trip at the time the trip would be taken.

(c) *Services provided by other agencies.* In meeting the service criteria, the recipient may use services provided,

and funded, by agencies other than the recipient, and services delivered through other modes of transportation, if the services provided through other modes of transportation or by other agencies are part of a supplemental paratransit system coordinated by the recipient.

§ 27.89 Undue financial burdens of supplemental paratransit.

(a) If providing supplemental paratransit service as required by § 27.85 of this subpart would impose an undue financial burden on a recipient, the recipient must nonetheless provide such service to the extent that it does not impose an undue financial burden.

(b) For purposes of this section, an undue financial burden is deemed to exist if—

Option 1—the capital and operating costs of a supplemental paratransit system meeting the requirements of § 27.85 would be such that, in order to pay them, it would be necessary to increase bus fares on the recipient's fixed route bus system by:

Option 1a—10 percent.
Option 1b—15 percent.
Option 1c—25 percent.
Option 1d—Another percent.

Option 2—the capital and operating costs of a supplemental paratransit system meeting the requirements of § 27.85 would be such that, in order to pay them, it would be necessary to eliminate bus runs or routes that serve

Option 2a—10 percent
Option 2b—15 percent
Option 2c—25 percent
Option 2d—Another percent

of current ridership on the fixed route bus system.

Option 3—the capital and operating costs of a supplemental paratransit system meeting the requirements of § 27.85 would be such that, as the result of paying them, the average current financial loss per trip of providing fixed route and supplemental paratransit service to all riders would increase by:

Option 3a—10 percent
Option 3b—15 percent
Option 3c—25 percent
Option 3d—another percent.

Option 4—if any combination of the above criteria were met (e.g.,

* fare increase of _____ percent and/or service cutback of _____ percent
* fare increase of _____ percent and/or deficit increase of _____ percent
* deficit increase of _____ percent and/or service cutback of _____ percent
* fare increase of _____ percent and/or service cutback of _____ percent and/or deficit increase of _____ percent).

(c) A recipient may apply, in writing, to the Secretary for an undue financial burden waiver of any requirement under § 27.85, except the eligibility requirement of § 27.85(a). The waiver request shall include the following elements:

(1) A statement of the provision(s) of § 27.85 from which a waiver is being sought;

(2) The basis for the assertion that compliance with the provision(s) of § 27.85 in question would impose an undue financial burden;

(3) A demonstration that other means of providing supplemental paratransit service that impose a lesser financial burden are unavailable or impracticable; and

(4) The recipient's plan for ensuring that all service required by § 27.85 that does not impose an undue financial burden will be provided.

(d) In reviewing a waiver request, the Secretary may take into account only expenditures by the recipient of its own funds, from whatever source derived, for the supplemental paratransit required by this subpart.

(e) The Secretary may grant or deny a waiver request meeting the requirements of this section. The grant or denial of such a waiver request shall be in writing, shall state the reasons for the decision, and, where a waiver is granted, may impose any reasonable conditions deemed appropriate by the Secretary.

(f) A waiver shall cease to be in effect three years from the date it is granted, unless the Secretary, in the document granting the waiver, has designated a different expiration date for good cause. The recipient may apply for the renewal of a waiver. Any renewal request shall meet the requirements of paragraph (c) of this section.

§ 27.91 Provision of service.

(a) Recipients shall ensure that—

(1) Vehicles and equipment are capable of accommodating all the users for which fixed route accessible service, supplemental paratransit service, or other service is intended and are maintained in proper operating condition;

(2) Sufficient spare accessible vehicles are available to maintain accessible fixed route, supplemental paratransit, or other service at required levels;

(3) Personnel are trained and supervised to that they operate vehicles and equipment safely and properly; treat users of accessible fixed route, supplemental paratransit, and other service in a courteous and respectful way; and respond appropriately to individuals with handicaps (including persons with physical, sensory, mental, and emotional disabilities), distinguishing among the different abilities of such individuals;

(4) Adequate assistance and information concerning the use of accessible fixed route, supplemental paratransit, and other service is available to individuals with handicaps, including those with vision or hearing impairments. This obligation includes making adequate communications capacity available to enable users to obtain information about, and to schedule, service; and

(5) Service is provided in a timely manner, including meeting scheduled pickup times.

(b) Notwithstanding the provision of any special service to individuals with handicaps, a recipient shall not, on the basis of handicap, deny to any individual with handicaps the opportunity to use the recipient's system of mass transportation for the general public, if the individual is capable of using that system. Nor shall a recipient discriminate against an individual with handicaps in connection with the provision of its transportation service for the general public.

§ 27.93 Public participation.

(a) Each recipient shall consult with individuals with handicaps and groups representing them concerning its implementation of the requirements of this subpart. In connection with this consultation, all cost estimates, working papers, plans, and other material pertaining to the recipient's implementation of this subpart shall be made available to all interested persons.

(b) Within 180 days of the effective date of this subpart, each recipient shall hold at least one public hearing concerning its implementation of the requirements of this subpart. Such a hearing shall also be held before any major change in the recipient's implementation of these requirements is put into effect and before any waiver request is submitted under § 27.83(c) or § 27.87(c). Hearings shall be held in accessible facilities, and recipients shall ensure that individuals with handicaps have an equivalent opportunity to participate, including the provision of auxiliary aids if appropriate.

(c) Each recipient shall provide a mechanism for continuing public participation in the implementation of the requirements of this subpart, including consultation with individuals with handicaps and groups representing them, public and private social service agencies, and operators of public and private transportation services for individuals with handicaps, and other interested persons.

§ 27.95 Monitoring.

(a) In connection with the triennial section 9 review and evaluation of the recipient's activities conducted by UMTA under 49 U.S.C. 1607a(g)(2), UMTA shall review and evaluate compliance of the recipient with this subpart.

(b) The compliance with the requirements of this subpart for section 18 recipients shall be monitored by the State section 18 agency every three years.

(c) With respect to any recipient not subject to a section 9 triennial review or subject to review by a section 18 State agency, UMTA shall conduct review of compliance with this subpart every three years.

§§ 27.95–27.103 [Reserved]

[FR Doc. 90-6770 Filed 3-22-90; 8:45 am]
BILLING CODE 4910-62-M

federal register

Monday
March 26, 1990

Part V

The President

Digest of Presidential Materials and Documents

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Part V

The President

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Memorandum of March 14, 1990—Delegation of Pt.O Reporting Obligation

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Title 3—

The President

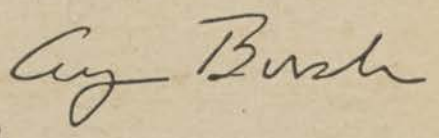
Presidential Determination No. 90–11 of February 20, 1990

Determination of Czechoslovakia's Eligibility for U.S. Export-Import Bank Programs

Memorandum for the Secretary of State

Pursuant to Subsection 2(b)(2) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(2)), I determine that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit and participate in the extension of credit in connection with the purchase or lease of any product or service by, or use in, or for sale or lease to Czechoslovakia.

You are authorized and directed to report this determination to Congress and to publish it in the **Federal Register.**



THE WHITE HOUSE,
Washington, February 20, 1990.

[FR Doc. 90–7049
Filed 3–23–90; 10:51 am]
Billing code 3195–01–M

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Memorandum of March 14, 1990

Delegation of PLO Reporting Obligation

Memorandum for the Secretary of State

Pursuant to title 3 U.S.C. section 301, I hereby designate and empower the Secretary of State to perform, without the approval, ratification, or other approval of the President, the functions of the President set forth in Title VIII of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; Public Law 101–246.

This memorandum shall be published in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, March 14, 1990.

[FR Doc. 90–7050
Filed 3–23–90; 10:53 am]
Billing code 3195–01–M

Reader Aids

Federal Register

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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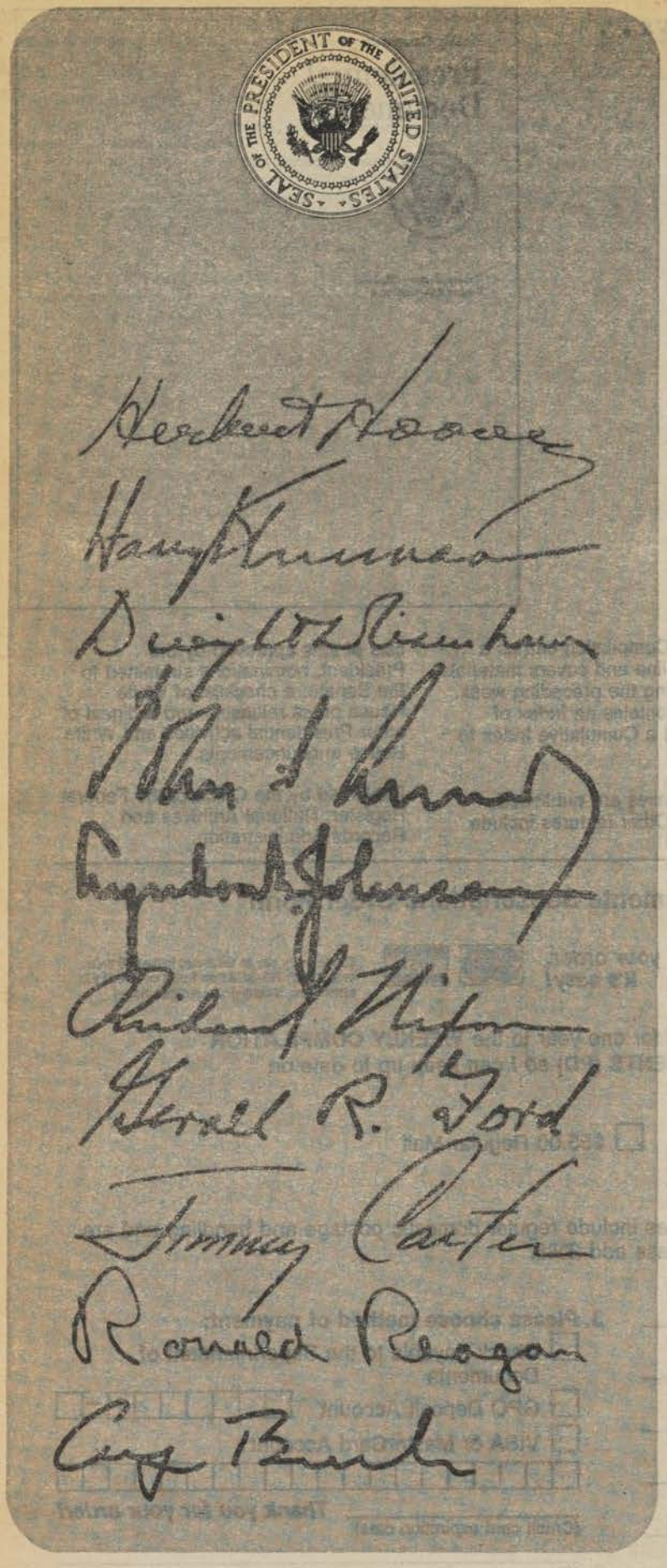
[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan.1, 1988 to Dec.31, 1988. The CFR volume issued January 1, 1988, should be retained.

[3] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.



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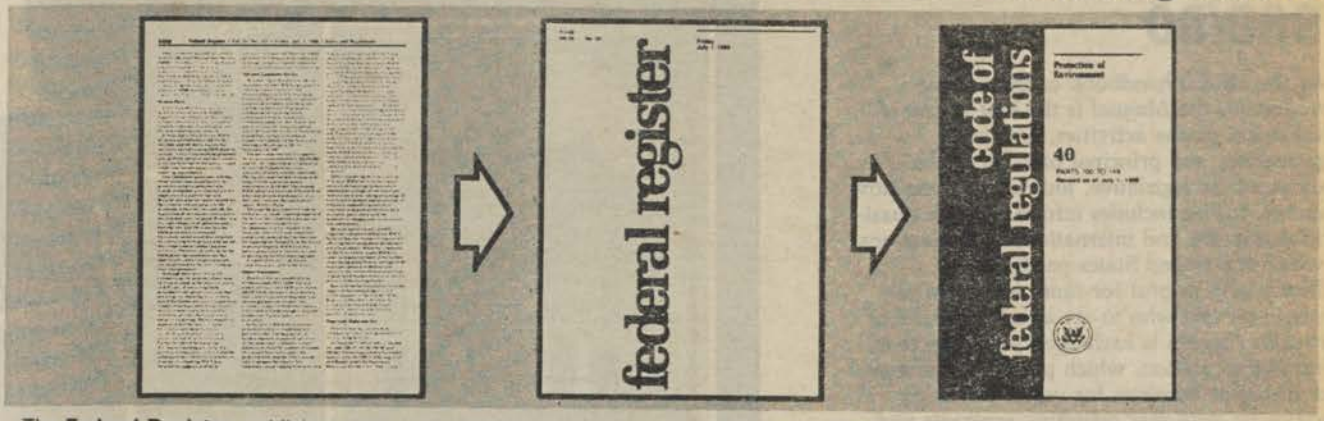

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